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THE

WORKS

OF

SIR WILLIAM JONES.

IN SIX VOLUMES.

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TO THE

GRAND JURY,

AT CALCUTTA, DECEMBER 4, 1783.

GENTLEMEN OF THE GRAND JURY,

IT might perhaps be ſufficient, if my addreſs to you this day were confined to ſome ſhort remarks on thoſe offences, of which the priſoners named in the calendar are accuſed; but ſuch is the particularity of my own ſituation, that I cannot help feeling an inclination to take a wider range. Six years have elapſed, ſince the ſeat, which I have now the honour to fill, became vacant; and, in that interval, ſo many important events have happened in *India*, and ſo many intereſting debates have been held in the parliament of *Britain*, on the powers and objects of this judicature, that I may naturally be expected to touch at leaſt, though not to enlarge, on thoſe events, all of which I have attentively conſidered, and on the reſult of thoſe debates, at moſt of which I was preſent. Such expectations, if ſuch have been formed, I ſhould be very loth to diſappoint; and, as I ſhall expreſs my ſentiments without reſerve, you will hear them, I am confident, with perfect candour.

None of you, I hope, will ſuſpect me of political zeal for any ſet of miniſters in *England*, with which vice my mind has never been infected; nor of political attachments here, which in my ſtation it will ever behove me to diſclaim, if, in the character of a magiſtrate appointed to preſerve the publick tranquillity, I congratulate you, who are aſſembled to inquire into all violations of it, on the happy proſpect of a general peace in every part of the world, with which our country is connected. The certain fruits of this pacification will be the revival and extenſion of commerce in all the dependencies of *Britain*, the improvement of agriculture and manufactures, the encouragement of induſtry and civil virtues, by which her revenues will be reſtored, and her navy ſtrengthened, her ſubjects enriched and herſelf exalted: but it is to *India*, that ſhe looks for the moſt ſplendid as well as moſt ſubſtantial of thoſe advantages; nor can ſhe be diſappointed, as long as the ſupreme executive and judicial powers ſhall concur in promoting the publick good, without danger of colliſion or diminution of each other's dignity; without impediment, on the one ſide, to the operations of government, or, on the other, to the due adminiſtration of juſtice.

The inſtitution, gentlemen, of this court appears to have been miſapprehended: it was not, I firmly believe, intended as a cenſure on any individuals, who exiſt, or have exiſted. Legiſlative proviſions have not the individual for their object, but the ſpecies; and are not made for the convenience of the day, but for the regulation of ages. Whatever were the reaſons for its firſt eſtabliſhment, of which I may not be ſo perfectly apprized, I will venture to aſſure you, that it has been continued for one obvious reaſon; that an extenſive dominion, without a complete and independent judicature, would be a phenomenon, of which the hiſtory of the world affords no example. Juſtice muſt be adminiſtered with effect, or ſociety cannot long ſubſiſt. It is a truth

truth coeval with human nature, and not peculiar to any age or country, that power in the hands of men will ſometimes be abuſed, and ought always, if poſſible, to be reſtrained; but the reſtrictions of general laws imply no particular blame. How many precautions have from time to time been uſed to render judges and jurors impartial, and to place them above dependence! Yet none of us conceive ourſelves diſgraced by ſuch precautions. The object then of the court, thus continued with ample powers, though wiſely circumſcribed in its juriſdiction, is plainly this: that, in every age, the *Britiſh* ſubjects reſident in *India* be protected, yet governed, by *Britiſh* laws; and that the natives of theſe important provinces be indulged in their own prejudices, civil and religious, and ſuffered to enjoy their own cuſtoms unmoleſted; and why thoſe great ends may not now be attained, conſiſtently with the regular collection of the revenues and the ſupremacy of the executive government, I confeſs myſelf unable to diſcover.

Another thing has been, if not greatly miſconceived, at leaſt very imperfectly underſtood; and no wonder, ſince it requires ſome profeſſional habits to comprehend it fully: I mean the true character and office of judges appointed to adminiſter thoſe laws. The uſe of law, as a ſcience, is to prevent mere diſcretionary power under the colour of equity; and it is the duty of a judge to pronounce his deciſions, not ſimply according to his own opinion of juſtice and right, but according to preſcribed rules. It muſt be hoped, that his own reaſon generally approves thoſe rules; but it is the judgement of the law, not his own, which he delivers. Were judges to decide by their bare opinions of right and wrong, opinions always unknown, often capricious, ſometimes improperly biaſſed, to what an arbitrary tribunal would men be ſubject! In how dreadful a ſtate of ſlavery would they live! Let us be ſatisfied, gentlemen, with law, which all, who pleaſe, may underſtand, and not call for equity in its

popular ſenſe, which differs in different men, and muſt at beſt be dark and uncertain.

The end of criminal law, a moſt important branch of the great juridical ſyſtem, is to prevent crimes by puniſhment, ſo that the pain of it, as a fine writer expreſſes himſelf, may be inflicted on a few, but the dread of it extended to all. In the adminiſtration of penal juſtice, a ſevere burden is removed from our minds by the aſſiſtance of juries; and it is my ardent wiſh, that the court had the ſame relief in civil, eſpecially commercial, cauſes; for the deciſion of which there cannot be a nobler tribunal than a jury of experienced men aſſiſted by the learning of a judge. Theſe are my ſentiments; and I expreſs them, not becauſe they may be popular, but becauſe I ſincerely entertain them; for I aſpire to no popularity, and ſeek no *praiſe, but that which may be given* to a ſtrict and conſcientious diſcharge of duty, without predilection or prejudice of any kind, and with a fixed reſolution to pronounce on all occaſions what I conceive to be the law, than which no individual muſt ſuppoſe himſelf wiſer.

The mention of my duty, gentlemen, leads me naturally to the particular ſubject of my charge, from which I have not, I hope, unreaſonably deviated: but you are too well apprized of your duty to need very particular inſtructions; and happily no higher offences (except one larceny) appear in the calendar than ſome criminal frauds and a few aſſaults: one of them, indeed, is ſtated as very atrocious; and, if you conſider that the frequency of ſmall crimes becomes a ſerious evil in ſociety, you will not think the more trivial complaints unworthy of your attention. Redreſs of wrongs muſt be given, or it will be taken; and the law wiſely forbids the ſlighteſt attack upon the perſon of a ſubject, leſt far worſe miſchief ſhould enſue from the

the ſudden ebullition of rage, or the ſlower, but more dangerous, operation of revenge.

Your powers, however, are not limited to this calendar, or even to the bills which may be preferred; for, whatever elſe ſhall come to your knowledge, it will be your part to preſent, and ours to hear attentively: thus, by a cordial concurrence in preſerving the publick peace, and bringing ſuch as violate it to puniſhment, we ſhall contribute, in our reſpective ſtations, to the ſecurity of this great ſettlement, and to the proſperity of theſe provinces, in which the deareſt intereſts of our common parent and country, *Great Britain*, are now eſſentially involved.

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, JUNE 10, 1785.

GENTLEMEN,

WHEN I firſt addreſſed a Grand Jury of *Calcutta*, too ſoon after my arrival in this country for any diſtinct idea to be formed of all its inhabitants, the ſmall number of priſoners, which, to my infinite joy, appeared in the calendar, gave me an opportunity of ſpeaking at large on the inſtitution of this court, and the principles of criminal juſtice. It is my turn to addreſs you at the opening of the preſent ſeſſion; but I have not, unfortunately, the ſame reaſon to rejoice, nor the ſame excuſe for expatiating on general topicks: I may, neverthleſs, without the impropriety of detaining you too long, touch on one or two ſubjects, which I have much at heart, and on which I cannot but flatter myſelf with a hope of your concurrence.

If I may juſtly, as I do ſincerely, conclude from my own obſervation at former ſeſſions, that the Grand Juries of this capital will deſerve the praiſe of intelligence and moderation, vigilance and humanity, I muſt be perſuaded,

persuaded, that you, Gentlemen, have little need of instruction in the discharge of your important duty, and I confidently leave with you the few persons, who are, I see, imprisoned under accusations of petty crimes; nor is it either expedient or becoming to point at particular cases, of which I have no official knowledge.

One case, which has come regularly before me as a justice of the peace, concerning the death of a *slave girl*, whom her master had beaten, I think it my duty to mention more at large; leaving to you the determination on facts from a view of all the circumstances, and declaring only my opinion of the law. A master may legally correct his servant with moderation, and with a view to his amendment; nor, if the servant thus corrected should die by some misfortune unforeseen, and unlikely to happen, would the master be guilty of any crime; but if the correction be immoderate, excessive, unreasonable, cruel, the party may have, if he live, a reparation in damages; or, if he die, the master will be guilty of manslaughter or of murder, according to the circumstances; of manslaughter, if he gave the fatal blow in a sudden burst of passion, after violent provocation, with a weapon not likely to kill; of murder, if he had full time for deliberation and coolness of blood; and that, whether he intended to destroy life, or only to chastise immoderately; for the true sense of *malice*, to constitute this *horrible* crime, is MALIGNITY *of heart*, or *a disposition to do mischief*, which may be ascertained by comparing the fault with the correction; and the age and condition of the person stricken, with the force of the striker, and the danger of the instrument used by him. It is hardly needful to remark, that, in such cases, a servant and a *slave*, if such a relation be known to our modern law, stand precisely on the same ground; as a lord, in feudal times, might indisputably have been convicted of murder for killing his villain or his neife.

In

In the preſent caſe, you will hear the witneſſes on one ſide only; and it is recommended by great lawyers, leſt enormous crimes ſhould be ſmothered without a trial, that Grand Juries find ſuch bills, as their conſciences oblige them to find at all, for the higheſt degree in the ſcale, that the evidence fairly ſupports, leaving it to the Petty Jury, under the direction of the Court, in queſtions of *law*, either to hold the priſoner guiltleſs, or to aſcertain the preciſe meaſure of his guilt by their verdict; but you are not abſolutely bound to follow this practice: you are bound to find the whole truth, as nearly as you can; and if the evidence amount not, in your conſcientious opinion, to murder, you may reject the bill for that crime, and find another for manſlaughter; nor ought it ever to be forgotten, that the great rule which all ſhould obſerve, from the petty juryman to the prince, is, to look on the crime and example with the eye of ſeverity, but on the criminal, as far as poſſible, with the eye of compaſſion; ſince it is the extremity of evil, ſays lord Bacon, "When mercy has no commerce with miſery:" yet it muſt be added, that mercy is due to the publick alſo, who may be great ſufferers, if crimes actually committed eſcape unpuniſhed.

Another caſe, Gentlemen, calls for your ſerious attention: a forgery has been committed, either by the perſon accuſed before me, or by his accuſer; which involves, not only the common guilt of that crime, *an intent to defraud another*, but alſo a deſign to *affect his perſonal rights* in the higheſt degree, and to abuſe the proceſs of this court by rendering it ſubſervient to the purpoſe of impriſoning a man, who ſtood in the way of others; and this attempt was to be forwarded by the baſeſt ſubornation of perjury: it is a conteſt between two brothers for a large eſtate; both the accuſed and his accuſer are *Bráhmans* of ſome rank, and have been active in oppoſite intereſts; the low wretches, who forged the bond, have confeſſed their act, which was done, they ſay, at the inſtigation of the accuſed *Bráhman*; who denies any knowledge

of their perſons, and inſiſts that his enemy muſt have engaged them to ruin him. Your ſagacity may enable you to diſcover the truth; but even in this caſe, you muſt temper juſtice with lenity, nor ſuffer yourſelves to be influenced by the odiouſneſs of the offence; and in all caſes of *forgery*, permit me to recommend indictments for the miſdemeſnor only; ſince very ſtrong arguments have been uſed, both at home and here, to prove that the rigour of our modern law in puniſhing that crime with death, cannot be legally extended to theſe provinces. I give no decided opinion yet on that point, nor on another, which may be ſtarted, whether, if the crime under conſideration *be* a capital felony in *India*, an indictment will alſo lie as at common law, ſince it has been held that *a felony merges or abſorbs a miſdemeſnor*; but I am prepared to deliver my ſentiments, and will deliver them fully, at a proper time.

I turn from theſe caſes, with full confidence both in your juſtice and your benevolence, to a ſubject which has greatly moved me, and on which the Grand Jury laſt ſummer preſented a ſtrong addreſs to the Court: I mean the condition of priſoners for debt in the jail of Calcutta. It is much to be lamented that no method has yet been deviſed by *Chriſtian* nations to keep defendants within the reach of juſtice, but that of confinement in a common priſon, where bad habits are generally learned, and good ones generally diſcontinued; where a debtor, perhaps faultleſs, is with-holden from his occupations and from his family, whilſt he remains miſerable himſelf, and uſeleſs to the publick. I cannot help thinking, that a better mode might be adopted, with no conſiderable expenſe to the ſtate or to individuals, eſpecially if the debtors be workmen or artificers; and impriſonment in this country, at this ſeaſon, is to all a grievous calamity; to many in every ſeaſon from religious notions of a defilement, that reaches beyond the funeral pile, worſe than inſtant death: but, until the wiſdom, goodneſs, and power

power of the legiſlature, ſhall co-operate for this end, we can only hope to mitigate an evil which we cannot prevent. You may be aſſured that no pains will be ſpared by us in promoting the object of the addreſs which I have mentioned, that whatever can be legally done by the Court, will not be omitted; and that, where our authority is limited, we will apply to the executive government here, or, if neceſſary, to the fountain of all authority at home. It may, perhaps, be within your province to ſee that affliction be not added to affliction, and that priſoners be not haraſſed by exorbitant demands: I would not intimate that any ſuch are made by the preſent keeper of the jail, of whom I know no harm, and have heard a favourable character; but following the ſpirit of a benevolent ſtatute, now, I believe, expired, I earneſtly exhort you to inquire, whether any kind of extortion has been committed, or any fees exacted beyond the moderate proviſion of the law; that, if ſuch enormity hath been practiſed, under the pretence of *cuſtom*, the authors of it may be puniſhed, and the ſufferers by it relieved.

There is another ſubject which has made a deep impreſſion on my mind, and you will, I truſt, accompany, if not anticipate, my remarks on it: I mean the miſery of *domeſtick bondage*, always afflicting enough in itſelf, and in this town often aggravated by the cruelty of maſters. Permit me here to requeſt, that you will not conſider my obſervations on this head as relating to the death of the girl, for which *Oſborne* is impriſoned; but his act, whatever may be the guilt of it, muſt not preclude me from diſcourſing on other acts of the ſame nature, the conſequences of which have not been ſo dreadful. It is needleſs to expatiate on the law (if it be law) of private ſlavery; but I make no ſcruple to declare my own opinion, that *abſolute unconditional ſlavery*, by which one human creature becomes the *property* of another, like a horſe or an ox, is happily unknown to the laws of *England*, and that no human law could give it a juſt ſanction: yet, though I hate the

 word,

word, the continuance of it, properly explained, can produce little miſchief. I conſider ſlaves as *ſervants under a contract*, expreſs or implied, and made either by themſelves, or by ſuch perſons, as are authorized by nature or law, to contract for them, until they attain a due age to cancel or confirm any compact that may be diſadvantageous to them: I have *ſlaves*, whom I reſcued from death or miſery, but conſider them as other *ſervants*, and ſhall certainly tell them ſo, when they are old enough to comprehend the difference of the terms. Slaves, then, if ſo we muſt call them, ought not to be treated more ſeverely than ſervants by the year or by the month; and the correction of them ſhould ever be proportioned to their offence: that it ſhould never be wanton or unjuſt, all muſt agree. Nevertheleſs, I am aſſured from evidence, which, though not all judicially taken, has the ſtrongeſt operation on my belief, that the condition of ſlaves within our juriſdiction is beyond imagination deplorable; and that cruelties are daily practiſed on them, chiefly on thoſe of the tendereſt age and the weaker ſex, which, if it would not give me pain to repeat, and you to hear, yet, for the honour of human nature, I ſhould forbear to particularize: if I except the *Engliſh* from this cenſure, it is not through partial affection to my own countrymen, but becauſe my information relates chiefly to people of other nations, who likewiſe call themſelves *Chriſtians*. Hardly a man or a woman exiſts in a corner of this populous town, who hath not at leaſt one ſlave child, either purchaſed at a trifling price, or ſaved perhaps from a death, that might have been fortunate, for a life, that ſeldom fails of being miſerable: many of you, I preſume, have ſeen large boats filled with ſuch children coming down the river for open ſale at *Calcutta*; nor can you be ignorant, that moſt of them were ſtolen from their parents, or bought, perhaps, for a meaſure of rice in a time of ſcarcity, and that the ſale itſelf is a defiance of this government, by violating one of its poſitive orders, which was made ſome years ago, after a conſultation of the moſt reputable *Hindus* in *Calcutta*, who

who condemned ſuch a traffic, as repugnant to their *Sáſtra.* The number of ſmall houſes in which theſe victims are pent, makes it, indeed, very difficult for the ſettlement at large to be apprized of their condition; and if the ſufferers knew where or how to complain, their very complaints may expoſe them to ſtill harſher treatment; to be tortured, if remanded, or, if ſet at liberty, to ſtarve. Be not, however, diſcouraged by the difficulty of your inquiries: your vigilance cannot but ſurmount it; and one great example of a juſt puniſhment, not capital, will conduce more to the prevention of ſimilar cruelties, than the ſtrongeſt admonition or ſevereſt verbal reproof. Should the ſlave-holders, through hardneſs of heart or confidence in their places of concealment, perſiſt in their crimes, you will convince them, that their puniſhment will certainly follow their offence, and the moſt hardened of them will, no doubt, diſcontinue the conteſt. Here, again, I may ſafely promiſe you, that, whatever the Court can do in terminating this evil, will cheerfully be done; and if our concurrent labour ſhould yet be found ineffectual, I confidently perſuade myſelf, that ſuch regulations of government will be adopted on our recommendation, as cannot fail of inſuring future protection to the injured, ſupport to the weak, and ſome conſolation at leaſt to the wretched: but I once more adjure you to diſmiſs theſe obſervations from your mind, when you deliberate on the caſe of *homicide*, to conſider them as pointed ſolely at acts of cruelty, which make life miſerable without cauſing the loſs of it, and to find ſuch bills as you cannot avoid finding, according to the whole evidence before you, and to your opinion, after our directions, of the law reſulting from it.

The laſt offence which I ſhall mention to you is ſo general, that it may affect every part of our proceedings in this Court, and ſo atrocious, that human nature, in which a ſenſe of religion ſeems inherent, ſtarts at the name of it; I mean *the wilful violation of ſolemn oaths*, without the

the ſanction of which, neither our fame, our properties, our freedom, or our lives can be long ſecure. Nevertheleſs, I have many reaſons to believe, and none to doubt, that affidavits of every imaginable fact may as eaſily be procured in the ſtreets and markets of *Calcutta*, eſpecially from the natives, as any other article of traffick. I need not exhort you in general to preſent perjured witneſſes, and their ſuborners of every claſs or perſuaſion, but will detain you a few moments longer with a remark or two on ſuch inhabitants of theſe provinces, as profeſs a belief in God, and in *Mohammed,* whom they call his prophet. All the learned lawyers of his religion, with whom I have converſed in different parts of *India*, have aſſured me with one voice, that an oath by a *Muſliman* is not held *binding on his conſcience*, unleſs it be taken *in the expreſs name of the Almighty*, and that even then it is incomplete, unleſs the witneſs, after having given his evidence, ſwear again *by the ſame awful name*, that he *has ſpoken* nothing but the truth. Nor is this abſtruſe or refined learning, but generally known to *Mohammedans* of every degree, who are fully apprized, that an *imprecation* on themſelves and their families, even with the *Koran* on their heads, is in fact no *oath* at all; and that, if, having ſworn that they *will* ſpeak truth, they ſtill utter falſehoods, they can expiate their offence by certain religious auſterities; but that, if they forſwear themſelves in regard to evidence *already given*, they cannot, except by the divine mercy, eſcape miſery in this world and in the next: it were to be wiſhed, that the power of abſolution, aſſumed by the *Romiſh* prieſthood, were at leaſt equally limited. My inquiries into the *Hindu* laws have not yet enabled me to give perfect information on the ſubject of *oaths* by the believers in *Brehmà*; but the firſt of their law-books, both in antiquity and authority, has been tranſlated into *Perſian* at my requeſt; and thence I learn, that the mode of taking evidence from *Hindus* depends on *the diſtinction of their caſts*, but that the puniſhment of falſe evidence extends rigourouſly to all, whether an oath be adminiſtered or not; and many *Bráhmans*,

mans, as well as other *Hindus* of rank, would rather periſh than ſubmit to the ceremony of touching the leaf of the *Tulaſi*, and the water of the *Ganges*, which their *Sáſtras* either do not mention at all, or confine to petty cauſes. It is ordained in the book of *Menu*, that a witneſs ſhall turn his face to the eaſt or to the north; and, as this rule, whatever may have given riſe to it, is very ancient, a revival of it may have no inconſiderable effect: according to the ſame legiſlator, ' a *Bráhman* ' muſt be ſworn by his credit, a *Cſhatri* by his arms, a *Vaiſya* by his ' grain, cattle and gold, and a *Sudra* by every crime that can be com- ' mitted;' but the brevity of this text has made it obſcure, and open to different interpretations. The ſubject is, therefore, difficult for want of accurate information, which, it is hoped, may in due time be procured, and made as publick as poſſible. In general I obſerve, that the *Hindu* writers have exalted ideas of criminal juſtice, and, in their figurative ſtyle, introduce the *perſon* of *Puniſhment* with great ſublimity: ' Puniſhment,' ſay they, ' with a black complexion and a red eye, ' inſpires terror, but alarms the guilty only; Puniſhment guards thoſe ' who ſleep, nouriſhes the people, ſecures the ſtate from calamity, and ' produces the happieſt conſequences in a country, where it is juſtly ' inflicted; where unjuſtly, the magiſtrate cannot eſcape cenſure, nor ' the nation, adverſity.'

Be it our care, Gentlemen, to avoid by all means the ſlighteſt imputation of injuſtice among thoſe, whom it is the lot of *Britain* to rule; and, by giving them perſonal ſecurity, with every reaſonable indulgence to their harmleſs prejudices, to conciliate their affection, while we promote their induſtry, ſo as to render our dominion over them a national benefit: and may our beloved country in all its dependencies enjoy the greateſt of national bleſſings, *good laws duly adminiſtered in ſettled peace!* for neither can the beſt laws avail without a due adminiſtration of them, nor could they be diſpenſed with effect, if the fears and paſſions of men were engaged by the viciſſitudes of war, or the agitation of civil diſcontents.

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, JUNE 10, 1787.

GENTLEMEN OF THE GRAND JURY,

I SHOULD exceed the bounds of my duty, and detain you too long from the discharge of yours, if I were to expatiate on the great variety of business, in which your diligent exertions at the present session may be highly beneficial to the settlement; and, indeed, whilst I hold in my hand this terrible catalogue of grievous offences, which must come under your consideration, I have ample materials for my address to you, without enlarging on such cases, as may probably be brought before you, but have not yet been the subject of complaint before a magistrate.

The first crime, which appears in the calendar, and of which three persons are now accused, (the same number having been indicted last session) is the most atrocious, that man, as a rational creature and a member of civil society, can commit, Murder; but I will spare your feelings as well as my own the pain of dwelling on one of the

 cases,

cafes, which you will hear but too foon; a cafe, fo horrible, that, if it be true, fcarce any punifhment of the offender would be too fevere, and, if falfe, the perjured accufers deferve the utmoft feverity of our law; which, in regard to perjuries affecting life, is, in my opinion, too lenient. Another foul murder has been committed near *Patna*, with every aggravation of the crime both in the motive and the manner of it: but there is no *direct* evidence againft the fuppofed murderer. The woman, who will repeat her fad ftory to you, actually faw her hufband, a native peafant, ftabbed by one foldier, while two held him; (and how highly it imports the honour of our government, that the natives be protected from the outrages of our foldiery, muft be obvious to all) but the night was too dark for her to diftinguifh their faces. Circumftances only have induced a fufpicion, that LA COSSE *was the perpetrator* of the crime; and they, it is true, may be fallacious; but, when many circumftances concur, they fometimes amount to proof at leaft as ftrong as the teftimony of witneffes: that the prifoner efcaped from the guard, who were bringing him to the prefidency, he excufed, on his examination, by alledging a natural love of liberty, which, he urged, was perfectly confiftent with innocence; but, unlefs you believe him innocent, it feems the province of a petit jury to determine, whether all the concurrent circumftances indubitably prove him guilty. I proceed to offences far lefs dreadful in themfelves, but almoft equally deferving of your ferious attention; for, if any thing ought particularly to affect our minds, and make us all extremely circumfpect in our paffage through life, it is the alarming confideration, that not only the more violent emotions of anger and hate, but even unguarded and idle words, have a tendency toward bloodfhed, and not unfrequently end in it. If this be the cafe with men of underftanding and education, what muft be expected from the uncontrolled paffions, unimproved intellects, and habitual vices of the low multitude? For this reafon principally

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I never think lightly of the *petty complaints*, as they are called, which are brought before me: I know, that wrath and malice will have a vent; that they are better ſpent in a court of juſtice than in black and ſilent revenge; and that, if ſuch ſerpents be not cruſhed in the egg, there can be no ſecurity againſt the mortal effects of their venom. You will attend, therefore, I am confident, even to *common* aſſaults; (for I need not mention ſuch as were made with any criminal deſign) and conſider no breach of the peace as trivial, the conſequence of which may, poſſibly at leaſt, be the ſhedding of human blood. This reaſoning leads me to a ſubject of the higheſt importance to every community; and particularly (for many weighty reaſons) to the inhabitants of this populous town: I mean thoſe offences againſt good morals and good order, which ſpring from the diſſolute manners of the populace, and branch out into all the diſorders and evils, that can affect the comfort of ſocial beings. *Exceſſive luxury*, with which the *Aſiaticks* are too indiſcriminately reproached in *Europe*, exiſt indeed in our ſettlements, but not where it is uſually ſuppoſed; not in the higher, but in the loweſt, condition of men; in our ſervants, in the common ſeamen frequenting our port, in the petty workmen and ſhopkeepers of our ſtreets and markets: there live the men, who, to uſe the phraſe of an old ſtatute, *ſleep by day and wake at night* for the purpoſes of gaming, debauchery, and intoxication. The inebriating liquors, which are extracted from common trees, and the ſtupifying drugs, which are eaſily procured from the fields and thickets, afford ſo cheap a gratification, that the loweſt of mankind purchaſe openly, with a ſmall part of their daily gains, enough of both to incapacitate them by degrees for any thing that is good, and render them capable of any thing that is evil; and exceſs in ſwallowing theſe poiſons is ſo general, that, if the ſtate had really been lighted up at the higher extremity, as it certainly is at the lower, it muſt inevitably have been conſumed. The miſchiefs, which

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this depravity occaſions, it is needleſs to enumerate; but, until ſome ordinance can be framed, which ſhall be juſt in itſelf and conformable to the ſpirit of our laws (both which qualities ought to characterize every regulation in the *Britiſh* empire) the publick has no hope of ſecurity, gentlemen, but from your vigilance. Diſorderly houſes, and places of reſort for drinking and gaming, are indictable as publick nuiſances; and, though it would be the work of many ſeſſions to eradicate the evil, yet a few examples of juſt puniſhment would have a ſalutary effect. You are too ſenſible, I am ſure, of the advantages ariſing from a trial by jury in criminal caſes, to wiſh for a power in any hands of *ſummary conviction*, which the legiſlature has not yet given, and which it always gives with reluctance; and I perſuade myſelf, that the gentlemen of this ſettlement are too publick-ſpirited to decline the trouble, which may attend the execution of any uſeful law, whether it be neceſſary to proſecute offenders by indictment, or to levy ſmall penalties by action in the Court of Requeſts.

Since I have mentioned *gaming*, I muſt add, that it is a vice produced by lazineſs and avarice, and leading to diſtreſs, which aggravates, inſtead of palliating, the offences frequently committed in conſequence of it. The moſt common of thoſe offences, among the loweſt of the people, are *theft* and *robbery*; and, if it be true, as it was ſworn before me, though not by a man who ſeemed worthy of much credit, that even the watch-houſes in this town are the haunts of unreſtrained and encouraged gameſters, we can expect little benefit from watchmen who thus diſcharge their important duties. In fact if we had a well ordered watch and ward in *Calcutta* (and that we have not, is become a conſtant ſubject of animadverſion among the natives of higher rank) we ſhould not have heard of robberies committed by ruffians maſked and armed, ſuch as a few months

months ago attacked a *Greek* merchant in his houſe, without ever being apprehended; nor of *burglaries* committed by abandoned vagabonds and night-walkers, who paſs through the uſual ſtages of profligacy, from idleneſs and vice to poverty, and from poverty to a reſolution of invading the property of the honeſt; after which, if they are unpuniſhed, they proceed from crime to crime till they cloſe their career in blood.

Having ſpoken of the little credit, which I gave to the oath of a low native, I cannot refrain from touching upon the frequency of perjury; which ſeems to be committed by the meaneſt and encouraged by ſome of the better ſort, among the *Hindus* and *Muſelmans*, with as little remorſe as if it were a proof of ingenuity, or even a merit, inſtead of being, by their own expreſs laws, as grievous a crime as man is capable of committing. I cannot name this offence without emotion; for (beſides its natural enormity) it renders the diſcharge of our publick duty both difficult and painful in the higheſt degree: it is not in cauſes, where *Hindus* or *Muſelmans* give evidence, that a fact is proved, becauſe it is ſworn; and we are compelled to take a greater latitude in judging by probability and a compariſon of circumſtances, than the ſtrictneſs of *Engliſh* judicature in general allows. With reſpect to the *Muſelmans*, we can eſtabliſh no ſtronger ſanction than the oath now adminiſtered; but, as to the *Hindus*, I cannot relinquiſh my opinion, that the moſt ſolemn poſſible form ought to be adopted, either by ordering all the witneſſes, who are to give evidence, to be previouſly ſworn by the *Bráhman*, our officer, in one of their own temples, or by ſwearing them in court before conſecrated *fire* brought from ſome altar of acknowledged holineſs. The charter requires *the moſt binding form*, and we know from our own *Bráhman*, that the preſent form is *not* the *moſt binding*; ſo that a doubt might be raiſed even on the legality of an indictment for violating an oath ſo taken. Until ſome change can be

be made (and change even from wrong to right has always its inconvenience) we muſt not forget to remind all *Hindu* witneſſes from time to time, that falſe evidence even by their own *Sháſtra's*, is the moſt heinous of crimes, and to adjure them by the name of GOD, (as a learned *Bráhman* at *Nedíya* aſſured me we were empowered to do, without ſhocking their prejudices) to ſpeak the whole truth and nothing but the truth: but ſuch, after all, is the corrupt ſtate even of their erroneous religion, that, if the *moſt binding* form on the conſciences of good men could be known and eſtabliſhed, there would be few conſciences to be bound by it; and, without exemplary puniſhments of actual perjury, ſubornation of it, and attempts to ſuborn, we ſhall never be able to adminiſter juſtice among them with complete ſatisfaction. It has been urged, with ſpecious good nature, "that puniſh-"ments loſe their effect by a frequent infliction of them; that pain "becomes *familiar to the evil hearted*; that every villain indulges a "hope of ſuffering in company; and that it is dangerous for the com-"munity to know, how few honeſt men are among them:" but this is the language rather of benevolent ſpeculation, than of attentive obſervation and experience; for, as long as men exiſt in a ſtate, who, without fearing GOD, fear the law, and without horror of a crime, tremble at the thought of puniſhment, ſo long it is neceſſary, that all crimes clearly proved be certainly and ſtrictly puniſhed; while few, it muſt be hoped, will ſuffer, and all will be warned. Could any thing induce me to wiſh, that you, gentlemen, were detained here from your other buſineſs longer than a week, it would be a deſire of bringing to *immediate* pain and diſgrace, ſuch witneſſes as may perjure themſelves during the remainder of the ſeſſion.

That you ſit only twice a year is alſo (if you will allow me to ſpeak openly) an evil which I frequently lament; ſince the neceſſity of keeping accuſed perſons within the reach of juſtice obliges us to confine in

in priſon thoſe who are charged with offences not bailable, or who are unable to find ſufficient bail; ſo that, if a charge is made ſoon after the end of your ſitting, the accuſed muſt remain ſix months in cuſtody; although it may afterwards be proved, that the accuſation was ſuggeſted by malice and ſupported by perjury. Such caſes, we muſt hope, very ſeldom occur; but ſo long an impriſonment, before conviction or even indictment, is not conformable to the benignity of our law: and permit me to requeſt, that if any complaints be made to you of exactions or cruelty in the jailor and his ſervants, or of their loading priſoners with irons, except where there is imminent danger of an eſcape, eſpecially if it be done with a view to extort money, you will pay a ſerious attention to the evidence adduced; ſo that our nation may never be juſtly reproached for inhumanity; nor the ſevereſt of misfortunes, loſs of liberty, be heightened under our government by any additional hardſhip without redreſs.

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, DECEMBER 4, 1788.

GENTLEMEN,

IF the unremitted vigilance of magiſtrates, the diligent attention of jurors, the approved excellence of our criminal laws, and the due infliction of adequate puniſhments, could prevent the commiſſion of crimes in this great and increaſing capital, I ſhould not hold in my hand ſo long a catalogue of terrible offences, which are believed to have been committed within the laſt ſix months by perſons under our juriſdiction; offences, which comprize nearly all, that *can* be committed againſt the publick *juſtice*, *tranquillity*, *convenience*, and *trade*, or againſt the *perſons*, *houſes*, and *property* of individuals, in protecting which the publick is eſſentially intereſted. To diſcourſe at large on each of thoſe heads, as they occur to me on inſpecting the calendar, would certainly be ſuperfluous; but it would ill become me to paſs them over in ſilence; for the principles of our criminal juriſprudence, and the caſes, in which they are applied, may not be freſh in your memories; and it cannot be reaſonably expected, that you ſhould ſtudy, as lawyers, the reports and

treatiſes, however excellent, of KELYNG and HALE, FOSTER and BLACKSTONE, or the voluminous works, however accurate, of modern compilers: I will take, therefore, a middle courſe, and confine myſelf to ſhort obſervations on thoſe crimes only, of which the priſoners are ſpecifically accuſed, ſo as to aſſiſt your recollection, and guide your judgement in finding or rejecting the ſeveral bills, that will, I know, be preſented to you.

It gives me, in the firſt place, inexpreſſible pain, to ſee no fewer than *four* perſons charged with ſo abominable an offence as corrupt *perjury*, or the *ſubornation* of it; and one of them, I obſerve with horror, is an *Armenian* by birth, and, in name at leaſt, a *Chriſtian:* now, if all laws, human and divine, if all religions, the many falſe and the one true, be thus openly defied, we muſt abandon all hope of adminiſtering juſtice perfectly; and, as much as I blame ſevere corporal puniſhments, eſpecially thoſe which mutilate the offender's body, I muſt recommend a degree of ſeverity, if the wickedneſs of man cannot otherwiſe be reſtrained. The cruel mutilations, practiſed by the native powers, are not only ſhocking to humanity, but wholly inconſiſtent with the mildneſs of our ſyſtem; nor do they conduce even to the end propoſed by them; ſince it is the *certainty*, not the *cruelty*, of puniſhment, that can operate on the fears of thoſe, who fear nothing elſe: the old *Hindu* courts, from a fanciful notion of puniſhing the offending part, and depriving it of power to offend any more, would have cut out the *tongue* of a perjured man and amputated the *hand* of a thief or a forger; while the *Mohammedan* puniſhments, inflicted at this day in the *Aſiatick* dominions of *Britain*, are not leſs horrid, but have leſs appearance of reaſon. Happily we can ſee no ſuch horrors in *Calcutta*; but, as our houſe of correction, either through neglect or through want of laborious employment, would, I fear, be a houſe of lazineſs, as tranſportation is out of the queſtion, and as the pillory alone would hardly be

be thought ſhameful to thoſe, who have no ſenſe of ſhame, it will be adviſable to indict perjured men on the ſtatute of ELIZABETH; ſince, beſides impriſonment for ſix months, it inflicts, on default of paying a conſiderable fine, the puniſhment of having *both ears nailed to the pillory*, which, though painful at the time and perpetually ignominious, neither cruelly mangles the human frame, nor deprives the offender, ſhould he repent and be induſtrious, of gaining a ſubſiſtence by honeſt labour. Such indictments will be the leſs exceptionable, becauſe, if any caſe ſhould happen to be out of the ſtatute, there may be a conviction, I preſume, and conſequently a ſentence, as at common law.

Whatever be the cauſe, I cannot but believe, ſince it has been ſworn before me by an *Engliſhman*, who demanded ſecurity for the peace, that there are ſtreets in this populous town, and one eſpecially near the *Faujdàr's* houſe, through which it is extremely perilous for quiet men to paſs after ſunſet: they are inhabited, I am told, by low *European* tavern-keepers of all nations, and one of them, STEFANO an *Italian*, will be accuſed before you of a violent aſſault in his own tavern, of which the probable conſequence might have been the death of an unoffending man. By the common law, which is always clearer and generally wiſer than any ſtatute, the keepers of taverns, who permit frequent diſorders in them, or harbour perſons of bad repute, may be indicted and fined as for a *common nuiſance*, and open gaming-houſes are equally offenſive in the eye of law, as the haunts of profligate miſcreants and a temptation to pernicious vices; yet both are now ſo numerous, that a peaceable native can hardly ſleep without diſturbance from brawls or affrays, and dread of nocturnal robberies. Venerable fathers of families have lately complained to me with extreme anguiſh, that their ſons had been ruined in thoſe ſeminaries of wickedneſs; yet ſo relaxed are the principles even of the richer natives, that actions have been brought by an opulent

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Hindu for money advanced ſolely to ſupport a common gaming-houſe, in the profits of which he had a conſiderable ſhare; and the tranſaction was avowed by him with as much confidence, as if it had been perfectly juſtifiable by our laws and by his own. From whatever cauſe thoſe diſorders proceed, whether from illicit gains accruing to unauthorized licencers and protectors, or from wilful negligence in the low ſervants of thoſe, who are intruſted with the office of high conſtables, they are deſtructive to individuals, injurious to the publick, and deſerving of your ſerious inveſtigation.

Cheats, of which two or three appear next in the calendar, are uſually reckoned offences againſt *publick trade:* to this head are alſo referred thoſe deceitful practices and artful contrivances, by which even a wary individual may be defrauded of his money or goods; but you will conſider ſome kind of artifice or device as eſſential to the criminality of a fraud; ſince a mere palpable falſehood, which no man of ordinary underſtanding would implicitly believe, and an impoſition by means of it, which any man of ordinary prudence would have avoided, ſeems no crime againſt the publick, who cannot feel themſelves injured, becauſe a fool happens to ſuffer by his folly. There is an offence, which moſt ſeriouſly affects the trade of the community, and which the common law puniſhed for that reaſon with fine and impriſonment; I mean that of buying the *whole* of any commodity *with a deſign to raiſe the price of it at the pleaſure of the buyer*; ſince, if that were allowed, the price of commodities would entirely depend on the diſcretion of one or two wealthy individuals: it appears from an ancient record, that ſo baſe a *deſign* is equally puniſhable, whether any of the commodity engroſſed be actually reſold, or not; and a combination of ſeveral rich men with ſo bad a view would, I doubt not, be held a miſdemeſnor injurious to *publick trade.* Reaſon applies this principle to the engroſſing of

of *rice* and other *grain*; but good policy forbids the application of it in practice, eſpecially in theſe *Indian* provinces; for if, in the time of a mere dearth, ſuch engroſſers were puniſhed and their hoards diſſipated, no reſſource would ordinarily be left againſt future calamity, and a ſecond bad ſeaſon might cauſe all the horrors of a famine: but *coined ſilver* is a commodity of a leſs delicate nature; and, though the actual quantity of it in *Calcutta* may have been reduced by various cauſes, yet there is juſt ground for a ſuſpicion, that the artifices of ſeveral combined and wealthy *Sarràfs*, or money-changers, have raiſed the diſcount, on the exchange of *gold mohrs* for ſilver, to ſo enormous a degree as to affect all commercial tranſactions in *Bengal*. Now, though it be difficult to give poſitive proof of ſuch *intentions* and *combinations*, yet, if legal evidence of them be fairly obtained, the dread of impriſonment would operate more forcibly on the monied natives, eſpecially the *Hindus*, than the fear of a pecuniary mulct or of publick cenſure.

On the rules of law concerning *homicide*, we have unhappily had frequent occaſions to deliver our concurrent opinions; but, a fatal error ſeeming ſtill to prevail, that *an actual intention to kill* is eſſential to the crime of *murder*, I will recapitulate in few words the doctrine, on which I formerly enlarged. When you have certain evidence, that the perſon, who is ſaid to have been killed, is *really dead* (for that fact ſhould in the firſt place be incontrovertibly proved) you will conſider, whether any *act* of the perſon accuſed was either the *cauſe*, or the *occaſion*, of the death; next, whether it was a *lawful*, or an *unlawful*, act, and, if legal in itſelf, whether it was *reaſonable* and *moderate*, or *violent* and *cruel*; if *illegal*, whether it was done in a ſudden burſt of paſſion *and* with a weapon unlikely to deſtroy life, or *coolly and with apparent malignity of diſpoſition*; for, in that caſe, if death enſue by an act, of which it might, though *not actually intended*,

intended, be the *probable conſequence*, the offence will certainly be *murder*; the eſſence of which is not merely a *deſign to kill*, but a *depraved and malignant heart* evinced by the coolneſs of the deed, or the danger of the inſtrument uſed, or any other circumſtances, by which *malice* may plainly appear: you will too ſoon be called upon to apply theſe principles in a variety of caſes; and it ſurely imports our honour as a great nation, and becomes our character as juſt men, that whoever deprives another of life ſhould be openly tried, and either acquitted or condemned by thoſe laws, from which he would have ſought protection, if he had himſelf been injured.

Several natives have been committed for *burglarious entries* accompanied, in moſt inſtances, with actual *theft*; and, ſince the petit jury may in thoſe caſes convict of the *larciny* alone, if the proof of a *burglarious* act be deficient or doubtful, it will be right, as in caſes of homicide, to find your bills for the *capital* felony, when the evidence before you ſhall fairly ſupport the charge; but on *ſimple* burglary, that is, when the felonious intent has not been executed, I muſt offer a few ſhort obſervations. There are five ingredients in this offence, according to the five parts of its well-known definition, and relating to the circumſtances of *time*, *place*, *breaking*, *entry*, and *intent*: the time muſt be *night*; the place, a *dwelling-houſe*, or *parcel* of it; the *breaking*, either with ſome degree of *force*, or by *ſpecial implication*; the entry, with *part of the body* at leaſt, or with an *inſtrument* uſed by it; and the intent, to commit a *felony*. In reſpect of time and intent the law is *very ſtrict*; rather leſs ſtrict as to the place; and *ſtill leſs*, it ſhould ſeem, as to the breaking and entry; now, in the caſe of HERI and SANCAR (whoſe crime, if they really be guilty, was highly aggravated by the groſs violation of their duty as publick watchmen) you will probably have no doubt in regard to the *time* and *place*,

place, and very little as to their *intent*, if you believe that they had rubbed their faces and bodies with white powder to look like *Europeans*; but, as to the *breaking* and *entry*, there are ſome doubts, which nothing but full evidence can remove. They were caught, it has been ſworn, on the *terrace* of a detached houſe inhabited by a *Hindu*, and built in the faſhion of *Bengal*; and it is now believed, that they *began* with climbing into a ſmall room, or receſs, communicating with a private apartment, and uſed for the purpoſes of a water-cloſet in a *London*-houſe, but encloſed by a breaſtwork of bricks, and open at the top, the nature of the place in this climate not admitting, without extreme inconvenience and even danger to the family, of ſuch a covering as would exclude freſh air: the cornice over the door of the apartment was broken, together with part of the wall, either by accident in laying hold of it, or by deſign to facilitate the aſcent on the terrace, which was itſelf encloſed by a baluſtrade. Although a terrace on a houſetop, in the warm regions of *Aſia*, has been immemorially conſidered as an apartment of the houſe both for converſation in the evening and for ſlumber at night; although, like a varanda ſurrounded by rails or parapets, it is as much encloſed as the nature and deſign of it will allow; and although a nocturnal invaſion either of a terrace or a varanda, in a country where doors and windows muſt be left open night and day, would occaſion terror and generally be puniſhed with inſtant death, if the aſſailed were better armed than the aſſailant; yet, in favour of life, it may forcibly be urged, that the penal law of *England* ought not to be extended, by mere argument and analogy, to varandas and terraces; but whether the *place*, which has been deſcribed, was actually a room *in* the houſe, and whether the priſoners broke and entered it with a felonious intent, will beſt be determined by the petit jury; while the court will conſider, whether an *entry* by night into ſuch a place and with ſuch a deſign be not as burglarious in the eye of our law as a mere deſcent by a chimney in *England*. As to the defence of the two watchmen, that they

they were only difcharging their duty, inftead of violating it, the law will never fuffer itfelf to be infulted by fuch pretences; and, if it be proved, that VISHNURAM, (who attempted by the authority of the Company's badge to procure the releafe of his fon-in-law and the affociate, and even gave reafon by his menaces to believe, that he meant to refcue them), *knew of the felonious defign*, you will confider him as an acceffory *after* the fact; or, as a *principal* in it, if he was conftructively *prefent* by keeping guard near the houfe, while they broke and entered it. On this occafion I impute no blame to the two gentlemen, who act as high conftables in *Calcutta*, except that they do not feem to have taken, as they certainly fhould have done, from the low natives, whom they employ, fufficient fecurity for their good behaviour and for the faithful difcharge of their duty.

The *Armenian*, whom I mentioned under the head of perjury, being alfo charged with having *forged* the bond, to the due execution of which he pofitively fwore after ftrong and repeated warnings by an interpreter of his own nation, the great queftion again rifes, "Whether "the modern ftatute, which makes forgery capital, extend, or not, to "thefe *Indian* territories." On the fulleft confideration, I think the negative fupported by ftronger reafons than the affirmative: the ftatute in queftion feems to have been made on the fpur of the time; its principal object was to fupport the paper-credit of *England*, which had juft before been affected by forgeries of bank-notes; and it contains expreffions, which feem to indicate a local operation; the punifhment, which it inflicts, goes beyond the law of nature, and the *Britifh* laws appear to have been introduced into *India* by a charter preceding the ftatute, fo far at leaft as to bring this country within the general rule. Neverthelefs, I ftill think the queftion debatable: I fee it, as I lately told the fenior judge, who agrees with me, rather with the light of the rifing, than with that of the meridian, fun; and the learned argument of the judge,

judge, who differs from us, has rendered the point ſufficiently doubtful, to make me wiſh for a deciſion of it by the higheſt authority at the fountain-head of juſtice: yet the reaſons urged on the oppoſite ſide ſo far turn the ſcale, as to juſtify me in recommending an indictment on the ſtatute of ELIZABETH, eſpecially as a conviction on the modern ſtatute would not at preſent be followed by execution; and if the perſon convicted ſhould ſubmit to a long impriſonment rather than exerciſe the power, which would be given him, of appealing to the king in council, it might end in his eſcaping any puniſhment, or in his being puniſhed capitally at ſo diſtant a time, that the offence might be forgotten by the publick, and the great object of all penal ſtatutes wholly fruſtrated.

Whenever it ſhall be my turn to addreſs you, gentlemen, I will never deſiſt from recommending to your ſerious attention the ſtate of the gaol, the condition of the priſoners; the conduct of the gaoler and his ſervants. The facility of eſcaping from it has, I preſume, ſince your memorial to the government on that ſubject, been wholly or nearly removed; but, even if the conſtruction of the priſon ſhould render eſcapes eaſy, that would be a reaſon for the ſheriff and his officers to increaſe their vigilance in proportion to its neceſſity, inſtead of abating their diligence by violating poſitive law: now I hold it a violation of poſitive law to hamper any priſoners with irons before conviction, unleſs they behave in an unruly manner, or by ſome attempt or overt act induce a juſt ſuſpicion of their intention to eſcape; nor ought any diſcretionary power to be left to ſuch perſons, as muſt have the care of gaols, who are always men without education, and might eaſily be tempted to ſet a price on light fetters, or on a total exemption from them.

I conclude with obſerving, that, as three or four magiſtrates cannot poſſibly ſecure the peace of this important capital, ſo it is morally impoſſible, that all the petty offences committed in it from day to day can be legally and ſpeedily puniſhed, with due terror to other offenders, while two ſeſſions only are holden in each year; and with expreſſing my firm perſuaſion, that, if any legiſlative proviſion ſhould increaſe your trouble as grand jury-men, and that of the gentlemen, who ſerve on petit juries, you will all remember, that a degree of trouble is the price, which we pay for our common liberty; and that our common liberty, for which no price would be dear, will then only fall, when our conſtitutional mode of trial ſhall be ſuperſeded by ſummary juriſdictions, but will totter, when *Engliſhmen* of education and property ſhall ceaſe, through their love of eaſe, to ſhow by their perſonal exertions a warm alacrity for the ſupport of it.

CHARGE

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA, JUNE 10, 1790.

GENTLEMEN,

I CANNOT have the pleaſure, which I expected, of informing you, that few priſoners are named in the calendar: fewer, indeed, appear in it, than we have lately ſeen at our ſeſſions; and among the offences, with which they are charged, I perceive none, that ſeem to call for particular notice; none, that can here prove capital, except a caſe or two of felonious homicide and three or four of burglarious entries, on which I ſhall incidentally touch; and there certainly are none, on the nature and degrees of which you have not, on former occaſions, received ample inſtruction from charges delivered by my brethren or by myſelf. It might therefore ſeem, that no materials occur for a charge at the opening of the preſent ſeſſion, and that it might be ſufficient to diſmiſs you, with declaring my perfect confidence in your vigilant attention to the whole extent of your duty; but, ſince it has been uſual to detain you a ſhort time with the formal diſcourſe, I take this opportunity of doing that, which has not, I believe,

I believe, been any where done in any difcourfe either fpoken or written, and which you will find, I am perfuaded, neither ufelefs nor unacceptable: having no diflike to novelty, when utility accompanies it, I propofe to give you a concife, but, as far as I am able, a perfpicuous, comment on the general form of the Oath, which you have taken, and on every material word, which occurs in it; nor will you imagine, that it is too clear to need illuftration, when I affure you, that I did not myfelf underftand it entirely, till I had very attentively read and very fully confidered it; and that parts of it have appeared ambiguous to grand juries themfelves, I know from the queftions which have occafionally been put by them to the court, and often privately to me by fome of them, who were my intimate friends. You will not hear from me any common topicks on the fanction of oaths, which to men of education and principle would be needlefs and unbecoming; nor any difplay of antiquarian literature, which would here be idly oftentatious; nor any fubtil and abftrufe doctrines, which my fubject will by no means require; nor any exhortation to the confcientious difcharge of your office, which would, I know, be fuperfluous: it has truly, indeed, been faid, that "He, who admonifhes another to do that, which the other actually does, rather "commends than exhorts, and only conveys applaufe in the form "of an admonition;" but I wifh to avoid addreffing you perfonally: I fhall fpeak to you as to a grand inqueft in the abftract, and offer fuch rules as may be applied to practice by all, who fhall at any time ferve their country in the character, which you now fuftain. It is not as a cafuift, a metaphyfician, or an antiquary, but as a lawyer merely, that I fhall explain the true fenfe of your oath, at leaft as I underftand it; and I begin with a ruling principle, univerfally admitted, which you may confider as a key to the whole form, and which to fome parts of it will be clearly and forcibly applied.

The

The intention of that power, which impoſes an oath, is the ſole interpreter of its meaning, the guide of thoſe, who take it, and the meaſure of their duty. Now, ſince your oath is impoſed by the law, the intent of the law muſt be the pole-ſtar, by which you are to direct your courſe. Your obligation in conſcience depends, it is true, on your ſincere opinion of that intent; but, ſince the intention of the law is frequently ſo deep as to elude a ſuperficial view, you are bound in conſcience to examine it minutely, and to ſeek aſſiſtance from thoſe, whoſe office it is to diſcover and to declare it. From the imperfection of all human things, it is not always poſſible to avoid ambiguity of language; and the intention of the law may ſometimes be larger, ſometimes narrower, than the verbal expreſſion. Of an intention more extenſive than the words I will give you one ſtrong example: we take a preſcribed oath, as judges, that "we will to the beſt "of our knowledge, ſkill, and judgment, *duly* and *juſtly* execute our "offices, and *impartially adminiſter juſtice* in every cauſe, matter, or "thing, which ſhall come before us." To act *duly*, *juſtly*, and *impartially* ſeems no more than what is required of Arbitrators, and might be thought conſiſtent with judgments given according to our own opinions of what is juſt and right, or, in other words, according to our honeſt diſcretion; the very mode of judging, which, from a wiſe diſtruſt of human integrity, it is the chief uſe of eſtabliſhed law to preclude; and, ſince the conſtitutional, or publick, law, of which we know the intent, was the impoſer of our oath, we interpret it conformably to that intent, and hold ourſelves bound, on queſtions of *fact*, to give *true judgments according to the evidence*, and, on queſtions merely *legal*, to decide *according to law*; even though, as men, we may in particular caſes think the law too auſtere or too narrow, and may wiſh it changed by the only power that can change it; for we are to declare the law, not to make it. That the intent may be leſs extenſive than the popular ſenſe of the words

words uſed, we ſhall ſee in your oath, when we come to the application of this introductory maxim.

Your oath, as you may have obſerved, is a ſingle period conſiſting of four members or diviſions; and it is a *period* correctly ſo called, or in the form, as it were, of a *circle*; the awful phraſe at the concluſion being manifeſtly connected in ſenſe with the beginning of it: "So may "GOD help you, as you ſhall duly perform the promiſes, which you "call on him to atteſt, and which are diſtinctly enumerated." The phraſe, which makes the whole period *conditional* (for it is not *imperative*, as the firſt words of each diviſion might ſeem to imply) is placed at the end, for the purpoſe of your kiſſing the goſpel, as ſoon as the name of GOD has been pronounced, and thus making the whole oath your own, though it has only been read to you by the officer. I called it an awful phraſe, becauſe, though in form it invokes the ſupreme being as a defender, yet by implication it addreſſes Him as an avenger; and, though it openly expreſſes a benediction, yet it virtually implies an imprecation; the expreſſion could not be full, without raiſing too violent and too painful an image; and ſilence, on this occaſion as on many others, is more ſublime than the ſtrongeſt eloquence. The period thus connected has this apparent meaning: "May the divine aid be "granted to you, if the promiſes now made be performed; and with- "drawn, if they be violated!" than which a ſublimer idea could not enter the mind of man; ſince it is a clear deduction of reaſon, that the bare ſuſpenſion of the divine energy but for a moment would cauſe the inſtantaneous diſſolution of all worlds, and the tumultuous extinction of all, who inhabit them. You will readily believe, that I diſclaim all idea even of the poſſibility, that you ſhould knowingly violate ſuch promiſes; but (leſt any part of my ſubject ſhould paſs unnoticed) it is proper to obſerve, that a diſtinction has been taken in the ſecular or external forum, which the internal, or that of conſcience, could never have

have made, between an oath, which is *aſſertive*, and relates to ſome fact, paſt or preſent, and an oath, which is *promiſſory*, and relates to ſome future act. A narrowneſs, perhaps, in the old definition of perjury gave riſe to the opinion, that it can only be committed in a legal ſenſe by a falſe denial or by a falſe aſſertion; but it muſt ſurely appear ſtrange, that, when half the buſineſs of our civil courts conſiſts in enforcing the performance of promiſes or giving damages for the breach of them, our criminal courts ſhould think it leſs than perjury to violate in any caſe, either by word or deed, a promiſe confirmed by the ſtrongeſt and holieſt of ſanctions: reaſon ſurely dictates, that perjury may be committed both *in* the act of ſwearing by a falſe aſſertion, and *after* the act by wilfully violating *in any reſpect* an oath previouſly taken; and the conſciences of men ought not to be enſnared by ſubtil diſtinctions without any ſubſtantial difference. On this point, however, I need not inſiſt; and I only mentioned it, becauſe it applies to the principal verbs in the four diviſions of your oath, on which I now proceed to enlarge.

The firſt condition is, that *you ſhall diligently inquire, and make true preſentment, of all ſuch matters and things, as ſhall here be given you in charge, or otherwiſe come to your knowledge touching this preſent ſervice. Inquiry*, or ſearch and examination, is a word completely underſtood in its popular ſenſe; but it is here uſed with technical propriety, ſince you are called *inquirors* by ſome old writers, and the grand *inqueſt* by many of the moderns; and in this ſentence the uſe of it is the more proper, becauſe it not only comprehends the *examination* of witneſſes on bills preſented to you by third perſons, but alſo the *inveſtigation* of thoſe matters, which may have attracted your notice without the intervention of proſecutors, and which you may yourſelves preſent to the court, after bills have been prepared at your requeſt. With a ſimilar deſign of including both modes, the word *preſentment* (as the reſult of your

your *inquiry)* immediately follows; ſince that word, which is very comprehenſive, extends to *indictments* by private individuals in the name of the king, and to thoſe, which are commonly diſtinguiſhed as *preſentments* by the grand jury.

What the law underſtands by *true*, we ſhall preſently ſee, when we come to the fourth and laſt member of the period; but it is of great importance to explain the legal meaning of *diligence*; and I am clearly of opinion, that it means in your caſe, *the ſame degree of care and induſtry, that each of you would ſeverally apply to his own temporal affairs, or all of you collectively to ſuch worldly intereſts as might jointly concern you.* I aſſume with confidence, that all ſubjects of the ſame dominion are engaged to one another by an *implied contract*; a principle equally clear and uſeful, and leading to concluſions of the higheſt moment in morality and politicks. Some writers on ethicks, who have been taught, that popular principles are not the way to preferment, deny it; and, after deriding the notion of a contract *without a name*, challenge us to produce, a well-known forenſick name for the *ſocial contract*; but not to urge, that many valid and uſeful contracts are *innominate*, the very name, which they call for, is comprized in the epithet, which they uſe: it is the contract of *ſociety* or *partnerſhip*, differing only in extent, but not in kind, from the civil and private aſſociation univerſally known and practiſed. Now, ſince a partner both receives and confers a benefit, ſuch *diligence* is required of Him, as he would uſe in his own concerns, and the ſame diligence is demanded of you for a ſimilar reaſon; not leſs, becauſe you are benefited by the laws of your country, under which you act, and natural equity preſcribes, that every benefit ſhould have an adequate return; not more, becauſe, at the ſame time, you confer a benefit, and natural equity forbids, that a benefit ſhould be burdenſome to thoſe who confer it. Our law, which approximates to the perfection of reaſon, impoſes

no

no burden, that is unreaſonable; and, if any of you doubt in particular caſes (as ſome in your ſituation have naturally doubted) what ought to be the meaſure of your care and attendance, you need only aſk your own hearts, what degree of them are due to your private affairs of importance.

Next come the *ſubjects* of your inquiry and preſentments under two heads; firſt, ſuch as may be given you in charge; and, ſecondly, ſuch as may come to your knowledge independently of the charge, but relating to the preſent buſineſs, that is, to the legal redreſs of all publick wrongs, or the adminiſtration of criminal juſtice. In old times it was uſual, for all the articles of inquiry to be read at ſome length as part of the charge, after a general exhortation by the judge; and, if that mode had continued, the latter part of this diviſion, as included in the former would have been ſuperfluous; whence we may infer, that the preſent *form* of your oath is not of the higheſt antiquity, though the following member of it be certainly very ancient, and the ſubſtance of the whole may be traced back to the time of the *Saxon* princes.

Of the ſecond condition, that *you ſhall keep ſecret the king's counſel, your own, and that of your fellows*, the meaning might have been expreſſed with more perſpicuity. To declare at an improper time, and in an unfit place, what perſons have been indicted, might give traitors, conſpirators, and other great offenders an opportunity of abſconding, before they could be apprehended, or impel them perhaps to ſtrike ſome deſperate blow; and ſuch a premature diſcloſure might defeat the purpoſes of the law. It appears from the book of *Aſſiſes*, that in the reign of EDWARD the Third a grand juror was indicted *as a felon* for ſuch a diſcovery, but, as he was acquitted, the law remained undecided; and, though juſtice SHARDELOW declared, that in the opinion of ſome judges, a diſcovery by an indictor might be *treaſon* (meaning, I preſume, where

a *traitor* had been indicted, and the grand juror intended to facilitate his escape) yet the wisest judges in latter times have exploded and refuted the doctrine in GEORGE's case, and hold such a discovery to be merely a great misprision accompanied with the guilt of perjury. The *counsel* or *purpose*, of the king is formally comprised in every prosecution: it becomes in part your counsel, when you have unanimously concurred in finding the bill; and, when it has been found by a majority of your whole number, it is their counsel, which the dissentient must not disclose; for a grand juror, therefore, to reveal either his own acts and opinions, or those of his fellows, might have an effect equally dangerous; and, though the generality of your promise might, if its principal scope only were considered, be restrained to particular cases, yet it is the safer way in all cases, to maintain an impenetrable reserve on all business begun or concluded, that is, on the form of the indictment, the evidence in support of it, and the fact of its being found or rejected; except when you bring in your bills or have occasion to consult the court.

Thirdly, you implore the divine help on condition, that *you present no person from hatred, malice, or ill will, nor leave any thing unpresented from fear, favour, or affection.* These words are a paraphrase on a stronger and more elegant form preserved in the law of ETHELRED, by which the grand inquest were compelled to swear, that *they would accuse none, whom they believed innocent, nor conceal any, whom they thought guilty.* To be free from partial affections and preconceived opinions, from resentment and from regard, from all prepossessions, that might incline you to reject bills, or to find them true, is a duty common to all who are concerned in the administration of justice; and, though different motives are enumerated by way of example, yet the plain intent of the whole sentence is, that, from no motive whatsoever, neither from the darker passions of envy or wrath, nor from the amiable

amiable affections of compaſſion and benignity, ſhall you bring the guiltleſs into trouble, nor ſcreen probable guilt from a full and impartial trial. You will remember and emulate on this occaſion the ſublime attributes of your guide, the Law, which cannot be more ſtrongly expreſſed, than in the manly diction of the high minded and eloquent ALGERNON SIDNEY: "The good of a people ought to be fixed on a "more ſolid foundation than the fluctuating will or fallible under- "ſtanding of one or a few: for this reaſon law is eſtabliſhed, which "no paſſion can diſturb. It is void of deſire and fear, of luſt and "anger; it is pure diſpaſſionate mind; written reaſon, retaining ſome "meaſure of the divine perfection: it enjoins not that, which pleaſes "a weak, frail man, but, without any regard to perſons, commands "what is good, and puniſhes evil in all, whether noble or baſe, rich or "poor, high or low: it is deaf, inexorable, inflexible."

The preceding member of the period containing a *negative* condition, you are laſtly, preſented with it in *poſitive* form; that *you ſhall preſent all things* (not partially, but) *truly as they come to your knowledge, according to the beſt of your underſtanding*. Here we return to the phraſe, with which we began, of a *true preſentment* which you are bound to make, of all things relating to the buſineſs of the ſeſſion, as truly as you are enabled to make it, according to ſuch evidence as you have before you, and by ſuch an exertion of your intellectual powers, as all ſenſible men would apply to their own concerns; for ſo the law interprets in your caſe the ſuperlative *beſt*, not meaning, as in our, (for reaſons not applicable to your) that painful and intenſe application of mind, with which a mathematician ſolves the moſt abſtruſe problem, or a judge decides the moſt intricate cauſe. The only remaining doubt is, what the law means by a *true preſentment*; for what the law means, muſt be the rule of our interpretation, and the meaſure of your duty. Sir MATTHEW HALE, whom I always name with applauſe, was of opinion,

opinion, that if *probable* evidence be given for the king, the grand inqueſt ought to find the bill *true*; for it is but an accuſation, that is, the denunciation of a perſon, who, as they verily believe, ought to be tried: this opinion has been attacked with ſome warmth; becauſe the grand jury are ſworn, it is ſaid, *to preſent the whole truth*, and, it is added erroneouſly, *nothing but the truth*, and ought, therefore to have *the ſame perſuaſion*, that an indictment is true, with the petit jury, who take the ſame oath. I conceive the opinion of that great judge to be, if we rightly underſtand it, conſonant to law. He could not mean a remote and light probability, or ſlender ſurmiſe, but uſed the word *probable*, in a ſtrong and imphatical ſenſe, for an approximation to the truth as far as the grand jury can ſafely aſſert it. Probability has many ſhades or degrees, from the weakeſt, which borders on negation, to the ſtrongeſt, which touches the confines of certainty; and he uſes the poſitive degree *intenſively*, as the word *diligent* is uſed by the *Roman* lawyers: that you, who hear only one ſide, ſhould have *the ſame* perſuaſion with the petit jury, who hear both ſides, is impoſſible; and the law requires no impoſſibility. Nor is the word *true* invariably oppoſed to *falſe*, but often, both in popular and technical language, means *correct* or *exact*, *faithful* or *juſt*: a verdict is *true*, when it is *exactly conformable to the evidence*, though many ſuch verdicts have proved, in a ſtrict and logical ſenſe, unhappily falſe. To prevent miſtakes the word is qualified, in the oath of petit jurors, by the phraſe *according to the evidence*, and in yours by the words as *the things ſhall come to your knowledge*. The law intends generally, that the guilty ſhall be puniſhed and the innocent juſtified, but particularly, that you, gentlemen, ſhould find on good grounds a juſt accuſation, and that the petit jury, having heard both accuſation and defence, ſhould weigh the whole evidence and give their *verdict*, or *true ſaying*, according to the preponderant ſcale. LAMBARD applies the word *verdict* to an indictment, becauſe it is *true*, as far as evidence on one

one ſide can eſtabliſh the truth. The reſult of my reaſoning is, that you ſhould be perſuaded, as far as you have knowledge, that the accuſation is juſt, and the bill true in *ſubſtance*. As to mere *form*, it is not the intention of the law, that you ſhould preciſely aſcertain the truth of it: for inſtance, the offence muſt be laid on a certain day before the ſeſſion, which is one day in law; but on what particular day is of no conſequence; and what the law pronounces immaterial, cannot be material in conſcience of which the law, as we have eſtabliſhed, is the guide. Again; the law ſuppoſes, that atrocious offenders muſt have abandoned the fear of GOD; yet a wretch, who had abandoned every thing elſe, confeſſed before his execution in the north of *England*, that, in the very moment before he murdered a ſleeping man, he meditated on the awfulneſs of the divine Majeſty, and implored on his knees a deliverance from temptation: had ſuch a mixture of religion and wickedneſs been proved before the grand inqueſt, they would not ſurely have thought themſelves bound by their oath, to put a negative on the formal phraſe in the indictment. Let us now return to the calendar: when you find a bill for murder or burglary, as a regard for publick juſtice, and a tenderneſs for the party accuſed, may in many caſes require, you conform to the intention of the law, and are not underſtood to aſſert the abſolute verity, but to prefer a juſt accuſation; leaving the petit jury, with the aſſiſtance of the court, to aſcertain the preciſe degree of guilt; for it is neither conſiſtent with the ſtrict juſtice of the law, that a great offence ſhould be ſtifled, nor with its provident benignity, that a man, who muſt be acquitted and diſcharged if his caſe be found ſpecially, ſhould be liable many years afterwards, when all his witneſſes may be dead, to an indictment for a capital crime. Nevertheleſs, if you believe on the evidence for the proſecution, that there was no malice, or that any one ingredient of burglary was out of the caſe, you are at liberty, no doubt, to reject the bills, and to call for

for others more agreeable to the truth; or, if you think the witneſſes unworthy of credit, or their tale undeſerving of belief, you may reject them altogether; but though in moſt caſes you have a diſcretion, which the ſecrecy of your deliberations and reſolves naturally encourages, yet you will remember, that it muſt be a conſcientious and legal diſcretion; like perfect hiſtorians, you will not fear to ſay any thing that is true, nor dare to ſay any thing that is falſe; but will ſo act in every part of your duty, that the innocent may approach this tribunal without apprehenſion of danger, and the guilty leave it without complaining of injuſtice.

CHARGE

CHARGE

TO THE

GRAND JURY,

AT CALCUTTA,

DELIVERED JUNE 9, 1792.

GENTLEMEN OF THE GRAND INQUEST,

IF any point of criminal law, a full diſcuſſion of which might ſerve to guide you in finding or rejecting bills, or in deſiring new ones to be prepared, either aroſe from facts within my private knowledge or could be collected from this calendar, you would not find me reluctant, merely for the ſake of ſaving my own trouble or your time, in enlarging on it copiouſly to the beſt of my abilities; but no ſuch point really occurs. There are only two commitments by myſelf, and thoſe in caſes of ſo little moment, (though it was impoſſible to paſs them over without notice) that I had no doubt of bail being given by the parties committed; and, as to the treatment of priſoners before conviction, (a ſubject, which I always had much at heart) I have the pleaſure of believing, that the keeper of the priſon is fully apprized of his duty on that head, and would on no account apply any rigorous mode of confinement to perſons, whom the law preſumes innocent and only detains for a fair trial, unleſs they ſhould prove intractable and riotous, or had attempted an eſcape. As to the calendar, it ſpecifies only twenty-ſix

new

new commitments, the other perſons named in it having been indicted at a former ſeſſion; and of that number, three are caſes of homicide; two, of perjury; and one, of robbery; beſides which there are ſeveral aggravated aſſaults, grand larcinies, and cheats or criminal frauds; offences, on which the law (as far as you are concerned in knowing it) is either ſo clear in itſelf, or has been made ſo clear by concurrent opinions delivered from this bench, that it would at preſent be ſuperfluous to expatiate on it: the reſt are *petit larcinies*, *common aſſaults*, and *inferiour miſdemeanors*; the comparative number of which in this calendar ſuggeſts one topick, which I will very ſhortly diſcuſs; requeſting you to be aſſured, that I intend no diſreſpect to any one living, even if my opinion ſhould differ (which I do not know) from that of others preſent or abſent: much leſs do I mean to inſinuate, that you can fail to pay the utmoſt attention even to the moſt trivial caſes, that can be brought before you; but, ſince the topick ſeems to me of great conſequence, I ſhall enter upon it without reſerve; not imperiouſly obtruding my judgement on yours, but calmly reaſoning with you, as a man, who loves his country, ſhould reaſon with men, who equally love it.

This then is the point, which I engage to maintain: that no penal caſe, how inſignificant ſoever in itſelf, is below the ſerious attention of a grand inqueſt, who cannot but ſet a juſt value on our incomparable mode of trial by jury; becauſe, if they once convince the publick, that they think ſlight offences below their notice, the neceſſities of that publick, to whom a number of ſmall crimes are a great evil, will oblige them to wiſh for ſummary juriſdictions; and every ſummary juriſdiction is a ſlur on trials by jury, and conſequently a ſtep towards eſtabliſhing arbitrary power.

It is agreed by all, who have coolly and impartially ſtudied our noble conſtitution, as declared by many ſtatutes from the great charter to the

bill

bill of rights, all which, you know, are ſolemn recognitions of our ancient publick law, that three peculiar advantages are conferred by that ſacred law on the *people* of *England*, or on *all ſubjects, who are not noble, but may, if they pleaſe, be independent*; firſt, a diſtinct unalienable third ſhare of the legiſlative power; next, a right, coupled with a duty, of keeping and uſing arms for the defence of their perſons and habitations, as well as of their ſeveral counties, when the ſheriffs ſhall call for their aid; thirdly, the right of being tried, when impleaded or accuſed, by their equals freely choſen, inſtead of appointed officers, to whom they cannot except. Now, ſhould the time ever come (may it long, very long, be averted!) when the ſervants of the crown, through the blandiſhments of that patronage, with which they are uſually intruſted, ſhall obtain over both legiſlative houſes an influence limited only by their prudence in exerting it; and ſhould the day ever come (which to me would ſeem no leſs diſgraceful) when the counties of *England* ſhall be wholly unable to defend themſelves againſt riots, inſurrections, or invaſions, without the ſupport of a ſtanding army, you muſt be ſenſible, that, in thoſe events, the trial by jury would be the only anchor left, that could preſerve our conſtitution from total ſhipwreck. Great then muſt be the importance of encouraging and cheriſhing to the utmoſt a mode of trial ſo truly ineſtimable; and you will allow me here to recite a paſſage from Sir MATTHEW HALE, of whoſe character, taking it all in all, we may very juſtly ſay, that it has never been equalled: "I have ſeen, ſays that experienced "and virtuous man, I have ſeen arbitrary practice ſtill go from one "thing to another: the fines upon grand inqueſts began; then they "ſet fines upon the petit juries for not finding according to the "directions of the court; afterwards the judges proceeded to fine jurors "in civil cauſes, if they gave not a verdict according to direction "even in points of fact." The inſtance given by him is very ſtrong; but it is the principle, which I apply; and we may thence infer, that,

if any acknowledged ſubjects of *Britain* (for a different faith or complexion can make no difference in juſtice and right) ſhall be tried, convicted, and puniſhed by a ſummary juriſdiction, however conſtituted, for *petit larcinies*, *breaches of the peace*, *and other miſdemeanors*, *and all offences inferiour to felony*, it will be a ſubſequent ſtep to try them for *grand larciny* and for all *felonies within* the benefit of clergy; after which the tranſition to *felonies without* that benefit will not be more abrupt then the third ſtride, which had actually come to the knowledge of the learned and excellent judge, whom I always name with honour and cite with confidence. The progreſs of arbitrary power is commonly ſlow at firſt, and imperceptible to all but the vigilant, like the creeping of a tiger at night in a brake; and it behoves us, by all decent and legal means, to guard poſterity againſt that ultimate ſpring, from which nothing leſs then the doubtful horrours of civil war might be able to protect them.

The *convenience*, indeed, of ſummary juriſdictions I am ready to admit; but it might be ſtill more *convenient* to part with other conſtitutional rights, which are attended with troubleſome duties; and we muſt always remember, what has often been ſaid, that ſome inconvenience and trouble are the price, which free men muſt neceſſarily pay for their freedom. To conclude: though all, who hear me, have, I am perſuaded, the ſame generous ſentiments with myſelf on this point, yet I was deſirous of impreſſing it forcibly on your minds; for, ſhould our numerous fellow-ſubjects, who will, I truſt, reviſit their common country, carry back with them an indifference, contracted at this diſtance from it, to the principles of its publick law, ſome future age (perhaps an age not very diſtant) may have juſt occaſion to exclaim: "It had been happy for us, if a *Britiſh* dominion "had never been eſtabliſhed in *Aſia*."

INSTITUTES

CORRESPONDENCE

WITH THE

GOVERNMENT OF FORT WILLIAM.

To Earl CORNWALLIS, Governor General, &c.

My Lord,

It has long been my wiſh to addreſs the government of the Britiſh dominions in India, on the adminiſtration of juſtice among the natives of Bengal and Bahar; a ſubject of equal importance to the appellate juriſdiction from the provincial Courts and to the judicature of the Supreme Court at Calcutta; where the judges are required by the Legiſlature to decide controverſies between Hindu and Mohammedan parties, according to their reſpective laws of contracts and of ſucceſſion to property: they had, I believe, ſo decided them in moſt caſes, before the ſtatute, to which I allude, had paſſed; and the Parliament only confirmed that mode of deciſion, which the obvious principles of juſtice had led them before to adopt. Nothing indeed could be more obviouſly juſt, than to determine private conteſts according to thoſe laws, which the parties themſelves had ever conſidered as the rules of their conduct and engagements in civil life; nor could any thing be wiſer than, by a legiſlative act, to aſſure the Hindu and Muſelman ſubjects of Great Britain, that the private laws, which they ſeverally hold ſacred, and a violation of which they would have thought the moſt

grievous oppreſſion, ſhould not be ſuperſeded by a new ſyſtem, of which they could have no knowledge, and which they muſt have conſidered as impoſed on them by a ſpirit of rigour and intolerance. So far the principle of deciſion between the native parties in a cauſe appears perfectly clear; but the difficulty lies (as in moſt other caſes) in the application of the principle to practice; for the Hindu and Muſelman laws are locked up for the moſt part in two very difficult languages, Sanſcrit and Arabick, which few Europeans will ever learn, becauſe neither of them leads to any advantage in worldly purſuits; and, if we give judgement only from the opinions of the native lawyers and ſcholars, we can never be ſure that we have not been deceived by them.

It would be abſurd and unjuſt to paſs an indiſcriminate cenſure on a conſiderable body of men; but my experience juſtifies me in declaring, that I could not with an eaſy conſcience concur in a deciſion, merely on the written opinion of native lawyers, in any cauſe in which they could have the remoteſt intereſt in miſleading the Court: nor, how vigilant ſoever we might be, would it be very difficult for them to miſlead us; for a ſingle obſcure text, explained by themſelves, might be quoted as expreſs authority, though perhaps in the very book, from which it was ſelected, it might be differently explained, or introduced only for the purpoſe of being exploded.

The obvious remedy for this evil had occurred to me before I left England, where I had communicated my ſentiments to ſome friends in Parliament and on the Bench in Weſtminſter Hall, of whoſe diſcernment I had the higheſt opinion; and thoſe ſentiments I propoſe to unfold in this letter, with as much brevity as the magnitude of the ſubject will admit. If we had a complete Digeſt of Hindu and Mohammedan laws, after the model of Juſtinian's ineſtimable Pandects, compiled

compiled by the moſt learned of the native lawyers, with an accurate verbal tranſlation of it into Engliſh; and if copies of the work were repoſited in the proper offices of the Sedr Diváni Adálat, and of the Supreme Court, that they might occaſionally be conſulted as a ſtandard of juſtice, we ſhould rarely be at a loſs for principles, at leaſt, and rules of law applicable to the caſes before us, and ſhould never perhaps be led aſtray by the Pandits or Maulavi's, who would hardly venture to impoſe on us, when their impoſition might ſo eaſily be detected. The great work, of which Juſtinian has the credit, conſiſts of texts collected from law books of approved authority which in his time were extant at Rome; and thoſe texts are digeſted according to a ſcientifical analyſis; the names of the original authors, and the titles of their ſeveral books, being conſtantly cited with references even to the parts of their works, from which the different paſſages were ſelected; but, although it comprehends the whole ſyſtem of juriſprudence, public, private, and criminal, yet that vaſt compilation was finiſhed, we are told, in three years: it bears marks unqueſtionably of great precipitation, and of a deſire to gratify the Emperor by quickneſs of diſpatch; but, with all its imperfections, it is a moſt valuable mine of juridical knowledge. It gives law at this hour to the greateſt part of Europe; and, though few Engliſh lawyers dare make ſuch an acknowledgement, it is the true ſource of nearly all our Engliſh laws, that are not of a feudal origin. It would not be unworthy of a Britiſh Government, to give the natives of theſe Indian provinces a permanent ſecurity for the due adminiſtration of juſtice among them, ſimilar to that which Juſtinian gave to his Greek and Roman ſubjects; but our compilation would require far leſs labour, and might be completed with far greater exactneſs in as ſhort a time; ſince it would be confined to the laws of contracts and inheritances, which are of the moſt extenſive uſe in private life, and to which the Legiſlature has limited the deciſions of the Supreme Court in cauſes between native parties: the

labour

labour of the work would alſo be greatly diminiſhed by two compilations already made in Sanſcrit and Arabick, which approach nearly in merit and in method, to the Digeſt of Juſtinian. The firſt was compoſed a few centuries ago, by a Brahmen of this province, named *Raghunanden*, and is compriſed in twenty-ſeven books at leaſt, on every branch of Hindu law: the ſecond, which the Arabs call the Indian Deciſions, is known here by the title of *Fetáwíi Aálemgíri*, and was compiled by the order of *Aurangzíb*, in five large volumes, of which I poſſeſs a perfect and well-collated copy. To tranſlate theſe immenſe works would be ſuperfluous labour; but they will greatly facilitate the compilation of a Digeſt on the laws of inheritance and contracts; and the Code, as it is called, of Hindu law, which was compiled at the requeſt of Mr. Haſtings, will be uſeful for the ſame purpoſe, though it by no means obviates the difficulties before ſtated, nor ſuperſedes the neceſſity, or the expedience at leaſt, of a more ample repertory of Hindu laws, eſpecially on the twelve different contracts, to which *Ulpian* has given ſpecifick names; and on all the others, which, though not ſpecifically named, are reducible to four general heads. The laſt mentioned work is entitled *Vivádárnava Sétie*, and conſiſts, like the Roman Digeſt, of authentick texts, with the names of their ſeveral authors regularly prefixed to them, and explained where an explanation is requiſite, in ſhort notes taken from commentaries of high authority: it is, as far as it goes, a very excellent work; but, though it appear extremely diffuſe on ſubjects rather curious than uſeful, and though the chapter on inheritances be copious and exact, yet the other important branch of juriſprudence, the law of contracts, is very ſuccinctly and ſuperficially diſcuſſed, and bears an inconſiderable proportion to the reſt of the work. But, whatever be the merit of the original, the tranſlation of it has no authority, and is of no other uſe than to ſuggeſt enquiries on the many dark paſſages, which we find in it: properly ſpeaking, indeed, we cannot call it a tranſlation; for, though

though Mr. Halhed performed his part with fidelity, yet the Perſian interpreter had ſupplied him only with a looſe injudicious epitome of the original *Sanſcrit*, in which abſtract many eſſential paſſages are omitted, though ſeveral notes of little conſequence are interpolated, from a vain idea of elucidating or improving the text. All this I ſay with confidence, having already peruſed no ſmall part of the original with a learned Pandit, comparing it, as I proceeded, with the Engliſh verſion.

Having ſhewn, therefore, the expedience of a new compilation for each ſyſtem of Indian law, I beg leave to ſtate the difficulties which muſt attend the work, and to ſuggeſt the means of removing them. The difficulty which firſt preſents itſelf, is the expence of paying the Pandits and Maulavi's, who muſt compile the Digeſt, and the native writers who muſt be employed to tranſcribe it. Since two provinces are immediately under this Government, in each of which there are many *cuſtomary* laws, it would be proper to employ one Pandit of Bengal and another from Bahar; and, ſince there are two Mohammedan ſects, who differ in regard to many traditions from their Prophet, and to ſome deciſions of their reſpective doctors, it might be thought equally proper to engage one Maulavi of each ſect; and this mode would have another advantage, ſince two lawyers conferring freely together, on fundamental principles common to both, would aſſiſt, direct, and check each other: but, as the moſt learned among them ought by all means to be ſelected, and, as the work would occupy all their time, a monthly ſalary of two hundred Sicca rupees for each, would be no more than reaſonable; and one hundred Sicca rupees a month, for each of the writers in Nágari and Arabick, would not be more than ſufficient wages, ſince they ought to be competently ſkilled in the two ſeveral languages, that they might avoid groſs errors in tranſcribing what the lawyers had written. The whole expence, therefore,

therefore, would be a thousand Sicca rupees a month; since the charges of the best English paper would not be worth considering: but, lest the persons employed should protract their work in hopes of continued salaries for a long period, they should be apprized, that the whole compilation must be finished and copied in three years, at the expiration of which their salaries would be stopped.

Although I can have no personal interest, immediate or consequential, in the work proposed, yet I would cheerfully have borne the whole expence of it, if common prudence had not restrained me, and if my private establishment of native readers and writers, which I cannot with convenience discontinue at present, did not require more than half of the monthly expence, which the completion of a Digest would, in my opinion, demand. I am under a necessity, therefore, of intimating that, if the work be thought expedient, the charges of it should be defrayed by the Government, and the salaries paid by their officers. The second difficulty is, to find a director of the work and a translator of it, who with a competent knowledge of Sanscrit and Arabick, has a general acquaintance with the principles of jurisprudence, and a sufficient share even of a legislative spirit, to arrange the plan of a Digest, superintend the compilation of it, and render the whole, as it proceeds, into perspicuous English, so that even the translation may acquire a degree of authority proportioned to the publick opinion of his accuracy. Now though I am truly conscious of possessing a very moderate portion of those talents, which I should require in the superintendent of such a work, yet I may without vanity profess myself equal to the labour of it. And though I would much rather see the work well-conducted by any man than by myself, yet I would rather give myself the trouble of it than not live to see it conducted at all; and, I cannot but know, that the qualifications required even in the low degree in which I possess them are not often found united in the same person for a reason before suggested. If your Lordship,

Lordſhip, therefore, after full conſideration of the ſubject, ſhall be of opinion, that a Digeſt of Hindu and Mohammedan laws would be a work of national honour, and utility, I ſo cheriſh both, that I offer the nation my humble labour, as far as I can diſpoſe of my time conſiſtently with the faithful diſcharge of my duty as a magiſtrate. Should this offer be accepted, I ſhould then requeſt your Lordſhip to nominate the Pandits and Maulavi's to whom I would ſeverally give a plan conformable to the beſt analyſis that I could make; and I ſhould be able, IF MY HEALTH CONTINUED FIRM, to tranſlate every morning, before any other buſineſs is begun, as much as they could compile, and the writers copy, in the preceding day. The *Dherma Sáſtra* or Sacred Code of the Hindus conſiſts of *eighteen* books, the firſt of which would in any age or nation be thought a wonderful performance; both the firſt and ſecond have excellent commentaries of great authority, but the other ſixteen are too eaſy to need elucidation: the works of *Menu*, of *Yágyawaleya*, and moſt of the others, are in blank verſe, but that of *Gautam* is in modulated proſe. Beſides theſe the Hindus have many ſtandard law-tracts with their ſeveral commentaries, and, among them, a fine treatiſe on Inheritances, by *Iímútavâhan*, to which our Pandits often refer; though, on that ſubject, the work of *Raghunandan* ſeems to be more generally approved in this province.

The Muſelmans, beſides a few general rules in the *Koran*, and a number of traditional *maxims* delivered from their prophet, and his companions, through the ſages of their law, together with the opinions of their celebrated lawyers preſerved by their diſciples, have two incomparable little tracts, one by *Siráju-ddín*, and the other by *Alkudúri*; the former on Succeſſions only, and the other on Contracts alſo, with comments on each, and further comments on them; not to mention ſome other tracts of acknowledged authority, and large collections of *deciſions* in particular caſes. All theſe books may, I ſuppoſe, be procured with eaſe; and ſome of

of the moſt rare among them are in my poſſeſſion: mine I would lend with pleaſure to the Pandits and Maulavi's, if they happened to be unprovided with good copies of them; and my example would, I perſuade myſelf, be followed on ſuch an occaſion by other collectors of eaſtern manuſcripts, both natives and Europeans. This is all, that appears neceſſary to be written on the ſubject, with which I began this addreſs to your Lordſhip; I could not have expreſſed myſelf more conciſely without ſome obſcurity; and to have enlarged on the technical plan of the work which I have propoſed, would have been ſuperfluous.

I have the honour to be,
My Lord,
Your Lordſhip's faithful and obedient Servant,
(Signed) WILLIAM JONES.

Calcutta, 19th March, 1788.

To Sir WILLIAM JONES, &c. &c. &c.

SIR,

THE Governor General has laid before us your letter addreſſed to him in Council of this date.

The object of your propoſition being to promote a due adminiſtration of juſtice, it becomes intereſting to humanity; and it is deſerving of our peculiar attention, as being intended to increaſe and ſecure the happineſs of the numerous inhabitants of the Company's provinces.

In addition to all other conſiderations, we are highly ſenſible that the accompliſhment of the Digeſt that you propoſe of the Hindu and Mahomedan

medan laws, would reflect the greatest honour upon our administration, and we think it singularly fortunate that a person so eminently qualified as you are, should, from principles of general benevolence and public spirit, be induced to engage in so arduous an undertaking.

We therefore, with the highest pleasure, accept of your offer to direct and translate this work, and we shall entirely rely upon your knowledge and judgement to select and appoint as many of the most respectable Moulavies and Pandits of this country as you may think necessary to give you effectual assistance.

We have no hesitation in giving our immediate assent to incur the expence that you propose for carrying on a work of so much value to the publick, and we have accordingly given orders to the Civil Paymaster to receive your directions for making the monthly disbursements in the manner that you have stated to be necessary.

We are, &c.

(Signed) GOVERNOR GENERAL AND COUNCIL.

Fort-William, 19th March, 1788.

9th June, 1793.

Sir,

I HAVE the pleasure of sending to the Governor General in Council, a system of Hindu laws, believed to be of divine authority, and, in my opinion, of the greatest importance. Having observed, that every page of the new compilation, by the Pandits employed by Government, was filled with texts of Menu, I thought it best to translate the whole code

code of that ancient legiſlator; becauſe I knew, that many of his laws, which appeared obſcure when detached, would be perfectly clear when connected.

Should the Government be pleaſed to give orders for printing the book in Calcutta, I will correct the preſs with the moſt vigilant attention; and I much doubt whether it can be corrected in England. Two more vacations will, I truſt, enable me to complete the Digeſt, with an Introductory Diſcourſe.

I am, &c.

(Signed) WILLIAM JONES.

EDWARD HAY, ESQ.
Secretary, &c. &c.

The Honourable Sir WILLIAM JONES, &c. &c. &c.

SIR,

I HAVE been honoured with your letter of the 9th inſtant, and have laid it before the Governor General in Council, with the two volumes you have been ſo good as to preſent to the Board, containing your tranſlation, in manuſcript, of the Manava Derma Saſtra. His Lordſhip in Council has inſtructed me to aſſure you, that he is highly ſenſible how much the public and the country at large are indebted to you, for the great trouble you have taken in preparing this great and moſt uſeful work; and to acquaint you, that as there is a certainty, under the offer which you have kindly made, of correcting the preſs ſhould the work be printed in this country, of its being publiſhed with a particular

particular degree of accuracy, that could not be expected if the work were printed in England, he has determined that the book ſhould be printed here.

I have received directions to have an exact copy in manuſcript made, and as parts of it are finiſhed, I ſhall, with your permiſſion, do myſelf the honour of ſending them to you, that you may be ſo obliging as to give ſuch orders to the ſuperintendents of the Company's preſs for printing the work, as you may wiſh to be attended to.

I am, with great reſpect, &c.

(Signed) EDWARD HAY,

Secretary to the Government.

Council Chamber, 11th June, 1793.

INSTITUTES

OF

HINDU LAW:

OR,

THE ORDINANCES OF MENU,

ACCORDING TO THE

GLOSS OF CULLÚCA.

COMPRISING THE

INDIAN SYSTEM OF DUTIES,

RELIGIOUS AND CIVIL.

VERBALLY TRANSLATED FROM THE ORIGINAL SANSCRIT.

WITH

A PREFACE,

BY SIR WILLIAM JONES.

THE PREFACE.

IT is a maxim in the ſcience of legiſlation and government, that *Laws are of no avail without manners*, or, to explain the ſentence more fully, that the beſt intended legiſlative proviſions would have no beneficial effect even at firſt, and none at all in a ſhort courſe of time, unleſs they were congenial to the diſpoſition and habits, to the religious prejudices, and approved immemorial uſages, of the people, for whom they were enacted; eſpecially if that people univerſally and ſincerely believed, that all their ancient uſages and eſtabliſhed rules of conduct had the ſanction of an actual revelation from heaven: the legiſlature of *Britain* having ſhown, in compliance with this maxim, an intention to leave the natives of theſe *Indian* provinces in poſſeſſion of their own Laws, at leaſt on the titles of *contracts* and *inheritances*, we may humbly preſume, that all future proviſions, for the adminiſtration of juſtice and government in *India*, will be conformable, as far as the natives are affected by them, to the manners and opinions of the natives themſelves; an object, which cannot poſſibly be attained, until thoſe manners and opinions can be fully and accurately known. Theſe conſiderations, and a few others more immediately within my province, were my principal motives for wiſhing to know, and have induced me

at

at length to publiſh, that ſyſtem of duties, religious and civil, and of law in all its branches, which the *Hindus* firmly believe to have been promulged in the beginning of time by MENU, ſon or grandſon of BRAHMA', or, in plain language, the firſt of created beings, and not the oldeſt only, but the holieſt, of legiſlators; a ſyſtem ſo comprehenſive and ſo minutely exact, that it may be conſidered as the *Inſtitutes* of *Hindu* Law, preparatory to the copious *Digeſt*, which has lately been compiled by *Pandits* of eminent learning, and introductory perhaps to a *Code*, which may ſupply the many natural defects in the old juriſprudence of this country, and, without any deviation from its principles, accommodate it juſtly to the improvements of a commercial age.

We are loſt in an inextricable labyrinth of imaginary aſtronomical cycles, *Yugas*, *Maháyugas*, *Calpas*, and *Menwantaras*, in attempting to calculate the time, when the firſt MENU, according to the *Bráhmens*, governed this world, and became the progenitor of mankind, who from him are called *Mánaváh*; nor can we, ſo clouded are the old hiſtory and chronology of *India* with fables and allegories, aſcertain the preciſe age, when the work, now preſented to the Publick, was actually compoſed; but we are in poſſeſſion of ſome evidence, partly extrinſick and partly internal, that it is really one of the oldeſt compoſitions exiſting. From a text of PARA'SARA, diſcovered by Mr. DAVIS, it appears, that the vernal equinox had gone back from the *tenth* degree of *Bharaní* to the *firſt* of *Aſwiní*, or *twenty-three degrees and twenty minutes*, between the days of that *Indian* philoſopher, and the year of our Lord 499, when it coincided with the origin of the *Hindu* ecliptick; ſo that PARA'SARA probably flouriſhed near the cloſe of the *twelfth* century before CHRIST: now PARA'SARA was the grandſon of another ſage, named VA'SISHT'HA, who is often mentioned in the laws of MENU, and once as contemporary with the divine BHRIGU himſelf; but the

character

character of BHRIGU, and the whole dramatical arrangement of the book before us, are clearly fictitious and ornamental, with a design, too common among ancient lawgivers, of stamping authority on the work by the introduction of supernatural personages, though VASISH'T'HA may have lived many generations before the actual writer of it; who names him, indeed, in one or two places as a philosopher in an earlier period. The style, however, and metre of this work (which there is not the smallest reason to think affectedly obsolete) are widely different from the language and metrical rules of CA'LIDA'S, who unquestionably wrote before the beginning of our era; and the dialect of MENU is even observed in many passages to resemble that of the *Véda*, particularly in a departure from the more modern grammatical forms; whence it must at first view seem very probable, that the laws, now brought to light, were considerably older than those of SOLON or even of LYCURGUS, although the promulgation of them, before they were reduced to writing, might have been coeval with the first monarchies established in *Egypt* or *Asia*: but, having had the singular good fortune to procure ancient copies of eleven *Upanishads* with a very perspicuous comment, I am enabled to fix with more exactness the probable age of the work before us, and even to limit its highest possible age, by a mode of reasoning, which may be thought new, but will be found, I persuade myself, satisfactory; if the Publick shall on this occasion give me credit for a few very curious facts, which, though capable of strict proof, can at present be only asserted. The *Sanscrit* of the three first *Védas* (I need not here speak of the fourth), that of the *Mánava Dherma Sástra*, and that of the *Puránas*, differ from each other in pretty exact proportion to the *Latin* of NUMA, from whose laws entire sentences are preserved, that of APPIUS, which we see in the fragments of the Twelve Tables, and that of CICERO, or of LUCRETIUS, where he has not affected an obsolete style: if the several changes, therefore, of *Sanscrit* and *Latin* took place, as we may fairly assume,

aſſume, in times very nearly proportional, the *Védas* muſt have been written about 300 years before theſe Inſtitutes, and about 600 before the *Puránas* and *Itiháſas*, which, I am fully convinced, were not the productions of VYA'SA; ſo that, if the ſon of PARA'SARA committed the traditional *Védas* to writing in the *Sanſcrit* of his father's time, the original of this book muſt have received its preſent form about 880 years before CHRIST's birth. If the texts, indeed, which VYA'SA collected, had been actually *written*, in a much older dialect, by the ſages preceding him, we muſt inquire into the greateſt poſſible age of the *Védas* themſelves: now one of the longeſt and fineſt *Upaniſhads* in the ſecond *Véda* contains three liſts, in a regular ſeries upwards, of at moſt *forty-two* pupils and preceptors, who ſucceſſively received and tranſmitted (probably by oral tradition) the doctrines contained in that *Upaniſhad*; and, as the old *Indian* prieſts were ſtudents at *fifteen*, and inſtructors at *twenty-five*, we cannot allow more than *ten* years on an average for each interval between the reſpective traditions; whence, as there are *forty* ſuch intervals, in two of the liſts, between VYA'SA, who arranged the whole work, and AYA'SYA, who is extolled at the beginning of it, and juſt as many, in the third liſt, between the compiler and YA'JNYAWALCYA, who makes the principal figure in it, we find the higheſt age of the *Yajur Véda* to be 1580 years before the birth of our Saviour, (which would make it older than the five books of MOSES) and that of our *Indian* lawtract about 1280 years before the ſame epoch. The former date, however, ſeems the more probable of the two, becauſe the *Hindu* ſages are ſaid to have delivered their knowledge orally, and the very word *Sruta*, which we often ſee uſed for the *Véda* itſelf, means *what was heard*; not to inſiſt, that CULLU'CA expreſsly declares the ſenſe of the *Véda* to be conveyed in the *language* of VYA'SA. Whether MENU, or MENUS in the nominative and MENO'S in an oblique caſe, was the ſame perſonage with MINOS, let others determine; but he muſt indubitably have been far older than the work, which

which contains his laws, and, though perhaps he was never in *Crete*, yet ſome of his inſtitutions may well have been adopted in that iſland, whence LYCURGUS a century or two afterwards may have imported them to *Sparta*.

There is certainly a ſtrong reſemblance, though obſcured and faded by time, between our MENU with his divine Bull, whom he names as DHERMA himſelf, or the genius of abſtract juſtice, and the MNEUES of *Egypt* with his companion or ſymbol, *Apis*; and, though we ſhould be conſtantly on our guard againſt the deluſion of etymological conjecture, yet we cannot but admit that MINOS and MNEUES, or *Mneuis*, have only *Greek* terminations, but that the crude noun is compoſed of the ſame radical letters both in *Greek* and in *Sanſcrit*. 'That APIS and 'MNEUIS, ſays the Analyſt of ancient Mythology, were both repre-'ſentations of ſome perſonage, appears from the teſtimony of LYCO-'PHRON and his ſcholiaſt; and that perſonage was the ſame, who in '*Crete* was ſtyled MINOS, and who was alſo repreſented under the 'emblem of the *Minotaur*: DIODORUS, who confines him to *Egypt*, 'ſpeaks of him by the title of the bull *Mneuis*, as the firſt lawgiver, 'and ſays, "That he lived after the age of the gods and heroes, when "a change was made in the manner of life among men; that he was "a man of a moſt exalted ſoul, and a great promoter of civil ſociety, "which he benefited by his laws; that thoſe laws were unwritten, and "received by him from the chief *Egyptian* deity HERMES, who con-"ferred them on the world as a gift of the higheſt importance." He 'was the ſame, adds my learned friend, with MENES, whom the '*Egyptians* repreſented as their firſt king and principal benefactor, who 'firſt ſacrificed to the gods, and brought about a great change in diet.' If MINOS, the ſon of JUPITER, whom the *Cretans*, from national vanity, might have made a native of their own iſland, was really the ſame perſon with MENU, the ſon of BRAHMA', we have the good fortune

fortune to reſtore, by means of *Indian* literature, the moſt celebrated ſyſtem of heathen juriſprudence, and this work might have been entitled *The Laws of* MINOS; but the paradox is too ſingular to be confidently aſſerted, and the geographical part of the book, with moſt of the alluſions to natural hiſtory, muſt indubitably have been written after the *Hindu* race had ſettled to the ſouth of *Himálaya*. We cannot but remark that the word MENU has no relation whatever to the *Moon*; and that it was the *ſeventh*, not the *firſt*, of that name, whom the *Bráhmens* believe to have been preſerved in an ark from the general deluge: him they call the *Child of the Sun*, to diſtinguiſh him from our legiſlator; but they aſſign to his brother YAMA *the office* (which the *Greeks* were pleaſed to confer on MINOS) *of Judge in the ſhades below*.

The name of MENU is clearly derived (like *menes*, *mens*, and *mind*) from the root *men* to *underſtand*; and it ſignifies, as all the *Pandits* agree, *intelligent*, particularly in the doctrines of the *Véda*, which the compoſer of our *Dherma Sáſtra* muſt have ſtudied very diligently; ſince great numbers of its texts, changed only in a few ſyllables for the ſake of the meaſure, are interſperſed through the work and cited at length in the commentaries: the Publick may, therefore, aſſure themſelves, that they now poſſeſs a conſiderable part of the *Hindu* ſcripture, without the dullneſs of its profane ritual or much of its myſtical jargon. DA'RA SHUCU'H was perſuaded, and not without ſound reaſon, that the firſt MENU of the *Bráhmens* could be no other perſon than the progenitor of mankind, to whom *Jews*, *Chriſtians*, and *Muſelmáns* unite in giving the name of ADAM; but, whoever he might have been, he is highly honoured by name in the *Véda* itſelf, where it is declared, that 'whatever MENU pronounced, was a medicine for the ſoul;' and the ſage VRIHASPETI, now ſuppoſed to preſide over the planet *Jupiter*, ſays in his own law tract, that 'MENU held the firſt rank among legiſ-

'lators,

'lators, becaufe he had expreffed in his code the whole fenfe of the 'Véda; that no code was approved, which contradicted MENU; that 'other *Sáſtras*, and treatifes on grammar or logick, retained ſplen-'dour fo long only, as MENU, who taught the way to juſt wealth, to 'virtue, and to final happinefs, was not feen in competition with them:' VYA'SA too, the fon of PARA'SARA before mentioned, has decided, that 'the *Véda* with its *Angas*, or the fix compofitions deduced from 'it, the revealed fyſtem of medicine, the *Purànas*, or facred hiſtories, 'and the code of MENU, were four works of fupreme authority, 'which ought never to be ſhaken by arguments merely human.'

It is the general opinion of *Pandits*, that BRAHMA' taught his laws to MENU in a *hundred thouſand verſes*, which MENU explained to the primitive world in the very words of the book now tranſlated, where he names himfelf, after the manner of ancient fages, in the third perfon; but, in a ſhort preface to the lawtract of NA'RED, it is afferted, that 'MENU, having written the laws of BRAHMA' in a 'hundred thoufand *ſlócas* or couplets, arranged under *twenty-four* heads 'in a *thouſand* chapters, delivered the work to NA'RED, the fage 'among gods, who abridged it, for the ufe of mankind, in *twelve* '*thouſand* verfes, and gave them to a fon of BHRĬGU, named SUMATI, 'who, for greater eafe to the human race, reduced them to *four* '*thouſand*; that mortals read only the fecond abridgement by SUMATI, 'while the gods of the lower heaven, and the band of celeſtial 'muficians, are engaged in ſtudying the primary code, beginning with 'the fifth verfe, a little varied, of the work now extant on earth; but 'that nothing remains of NA'RED's abridgement, except an elegant 'epitome of the *ninth* original title *on the adminiſtration of juſtice*.' Now, fince thefe inſtitutes confiſt only of *two thouſand ſix hundred* and *eighty-five* verfes, they cannot be the whole work afcribed to SUMATI,

SUMATI, which is probably diſtinguiſhed by the name of the *Vrĭddha*, or ancient, *Mánava*, and cannot be found entire; though ſeveral paſſages from it, which have been preſerved by tradition, are occaſionally cited in the new digeſt.

A number of gloſſes or comments on MENU were compoſed by the *Munis*, or old philoſophers, whoſe treatiſes, together with that before us, conſtitute the *Dhermaſáſtra*, in a collective ſenſe, or *Body of Law*; among the more modern commentaries, that called *Médhátit'hi*, that by GO'VINDARA'JA, and that by DHARANI'-DHERA, were once in the greateſt repute; but the firſt was reckoned prolix and unequal; the ſecond, conciſe but obſcure; and the third, often erroneous. At length appeared CULLU'CA BHATTA; who, after a painful courſe of ſtudy, and the collation of numerous manuſcripts, produced a work, of which it may, perhaps, be ſaid very truly, that it is the ſhorteſt, yet the moſt luminous, the leaſt oſtentatious, yet the moſt learned, the deepeſt yet the moſt agreeable, commentary ever compoſed on any author ancient or modern, *European* or *Aſiatick*. The *Pandits* care ſo little for genuine chronology, that none of them can tell me the age of CULLU'CA, whom they always name with applauſe; but he informs us himſelf, that he was a *Bráhmen* of the *Váréndra* tribe, whoſe family had been long ſettled in *Gaur* or *Bengal*, but that he had choſen his reſidence among the learned on the banks of the holy river at *Cáſi*. His text and interpretation I have almoſt implicitly followed, though I had myſelf collated many copies of MENU, and among them a manuſcript of a very ancient date: his gloſs is here printed in *Italicks*; and any reader, who may chooſe to paſs it over as if unprinted, will have in *Roman* letters an exact verſion of the original, and may form ſome idea of its character and ſtructure, as well as of the *Sanſcrit* idiom, which muſt neceſſarily be preſerved in a verbal tranſlation; and a tranſlation,

tranſlation, not ſcrupulouſly verbal, would have been highly improper in a work on ſo delicate and momentous a ſubject as private and criminal juriſprudence.

Should a ſeries of *Bráhmens* omit, for three generations, the reading of MENU, their ſacerdotal claſs, as all the *Pandits* aſſure me, would in ſtrictneſs be forfeited; but they muſt explain it only to their pupils of the three higheſt claſſes; and the *Bráhmen*, who read it with me, requeſted moſt earneſtly, that his name might be concealed; nor would he have read it for any conſideration on a forbidden day of the moon, or without the ceremonies preſcribed in the ſecond and fourth chapters for a lecture on the *Véda*: ſo great, indeed, is the idea of ſanctity annexed to this book, that, when the chief native magiſtrate at *Banares* endeavoured, at my requeſt, to procure a *Perſian* tranſlation of it, before I had a hope of being at any time able to underſtand the original, the *Pandits* of his court unanimouſly and poſitively refuſed to aſſiſt in the work; nor ſhould I have procured it at all, if a wealthy *Hindu* at *Gayà* had not cauſed the verſion to be made by ſome of his dependants, at the deſire of my friend Mr. LAW. The *Perſian* tranſlation of MENU, like all others from the *Sanſcrit* into that language, is a rude intermixture of the text, looſely rendered, with ſome old or new comment, and often with the crude notions of the tranſlator; and, though it expreſſes the general ſenſe of the original, yet it ſwarms with errours, imputable partly to haſte, and partly to ignorance: thus where MENU ſays, *that emiſſaries are the eyes of a prince*, the *Perſian* phraſe makes him aſcribe *four eyes* to the perſon of a king; for the word *chár*, which means *an emiſſary* in *Sanſcrit*, ſignifies *four* in the popular dialect.

The work, now preſented to the *European* world, contains abundance of curious matter extremely intereſting both to ſpeculative lawyers and

and antiquaries, with many beauties, which need not be pointed out, and with many blemiſhes, which cannot be juſtified or palliated. It is a ſyſtem of deſpotiſm and prieſtcraft, both indeed limited by law, but artfully conſpiring to give mutual ſupport, though with mutual checks; it is filled with ſtrange conceits in metaphyſicks and natural philoſophy, with idle ſuperſtitions, and with a ſcheme of theology moſt obſcurely figurative, and conſequently liable to dangerous miſconception; it abounds with minute and childiſh formalities, with ceremonies generally abſurd and often ridiculous; the puniſhments are partial and fanciful, for ſome crimes dreadfully cruel, for others reprehenſibly ſlight; and the very morals, though rigid enough on the whole, are in one or two inſtances (as in the caſe of light oaths and of pious perjury) unaccountably relaxed: nevertheleſs, a ſpirit of ſublime devotion, of benevolence to mankind, and of amiable tenderneſs to all ſentient creatures, pervades the whole work; the ſtyle of it has a certain auſtere majeſty, that ſounds like the language of legiſlation and extorts a reſpectful awe; the ſentiments of independence on all beings but God, and the harſh admonitions even to kings are truly noble; and the many panegyricks on the *Gáyatrì*, the *Mother*, as it is called, of the *Véda*, prove the author to have *adored* (not the viſible material *ſun*, but) *that divine and incomparably greater light*, to uſe the words of the moſt venerable text in the *Indian* ſcripture, *which illumines all, delights all, from which all proceed, to which all muſt return, and which alone can irradiate* (not our viſual organs merely, but our ſouls and) *our intellects.* Whatever opinion in ſhort may be formed of Menu and his laws, in a country happily enlightened by ſound philoſophy and the only true revelation, it muſt be remembered, that thoſe laws are actually revered, as the word of the Moſt High, by nations of great importance to the political and commercial intereſts of *Europe*, and particularly by many millions of *Hindu* ſubjects, whoſe well directed induſtry would add largely to the wealth of *Britain*, and who

who aſk no more in return than protection for their perſons and places of abode, juſtice in their temporal concerns, indulgence to the prejudices of their own religion, and the benefit of thoſe laws, which they have been taught to believe ſacred, and which alone they can poſſibly comprehend.

W. JONES.

THE

LAWS OF MENU,

SON OF BRAHMÁ.

CHAPTER THE FIRST.

On the Creation; with a Summary of the Contents.

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1. MENU *sat* reclined, with his attention fixed on one object, *the Supreme* GOD; *when* the divine Sages approached *him, and,* after mutual salutations in due form, delivered the following address:

2. 'Deign, sovereign ruler, to apprize us of the sacred laws in their 'order, as they must be followed by all the *four* classes, and by each 'of them, in their several degrees, together with the duties of every 'mixed class;

3. 'For thou, Lord, *and thou* only *among mortals,* knowest the true 'sense, the first principle, *and* the prescribed ceremonies, of this uni'versal, supernatural *Véda,* unlimited in extent and unequalled in 'authority.'

4. He, whoſe powers were meaſureleſs, being thus requeſted by the great Sages, whoſe thoughts were profound, ſaluted them all with reverence, and gave them a comprehenſive anſwer, *ſaying*: 'Be it 'heard!

5. 'This *univerſe* exiſted only *in the firſt divine idea yet unexpanded*, '*as if involved* in darkneſs, imperceptible, undefinable, undiſcoverable '*by reaſon, and* undiſcovered *by revelation*, as if it were wholly im- 'merſed in ſleep:

6. 'Then the *ſole* ſelf-exiſting power, himſelf undiſcerned, but 'making this world diſcernible, with five elements and other princi- 'ples *of nature*, appeared with undiminiſhed glory, *expanding his idea*, '*or* diſpelling the gloom.

7. 'He, whom the mind alone can perceive, whoſe eſſence eludes 'the external organs, who has no viſible parts, who exiſts from eter- 'nity, even he, the ſoul of all beings, whom no being can compre- 'hend, ſhone forth in perſon.

8. 'He, having willed to produce various beings from his own 'divine ſubſtance, firſt with a thought created the waters, and placed 'in them a productive ſeed:

9. 'That *ſeed* became an egg bright as gold, blazing like the lumi- 'nary with a thouſand beams; and in that egg he was born himſelf, *in* '*the form of* Brahma', the great forefather of all ſpirits.

10. 'The waters are called *nárá*, becauſe they were the production 'of Nara, *or the ſpirit of* God; and, ſince they were his firſt *ayana*,

'or

' or *place of motion*, he thence is named NA'RA'YANA, or *moving on the* ' *waters*.

11. ' From THAT WHICH IS, the firſt cauſe, not the object of ſenſe, ' exiſting *every where in ſubſtance*, not exiſting *to our perception*, without ' beginning or end, was produced the divine male, famed in all worlds ' under the appellation of BRAHMA'.

12. ' In that egg the great power ſat inactive a whole year *of the* ' *Creator*, at the cloſe of which by his thought alone he cauſed the ' egg to divide itſelf;

13. ' And from its two diviſions he framed the heaven *above* and ' the earth *beneath*: in the midſt *he placed* the ſubtil ether, the eight ' regions, and the permanent receptacle of waters.

14. ' From the ſupreme ſoul he drew forth Mind, exiſting ſubſtan-' tially though unperceived by ſenſe, immaterial; and, *before mind, or* ' *the reaſoning power, he produced* conſciouſneſs, the internal monitor, ' the ruler;

15. ' And, *before them both*, he produced the great *principle of the* ' *ſoul, or firſt expanſion of the divine idea*; and all vital forms endued ' with the three qualities of *goodneſs, paſſion*, and *darkneſs*; and the *five* ' perceptions of ſenſe, and the five organs of ſenſation.

16. ' *Thus*, having at once pervaded, with emanations from the ' Supreme Spirit, the minuteſt portions of ſix principles immenſely ' operative, *conſciouſneſs and the five perceptions*, He framed all crea-' tures;

17. ' And

17. ‘ And ſince the minuteſt particles of viſible nature have a depend-
‘ ence on thoſe *ſix* emanations from God, the wiſe have accordingly
‘ given the name of *s'aríra*, or *depending on ſix, that is, the ten organs*
‘ *on conſciouſneſs, and the five elements on as many perceptions*, to His
‘ *image or* appearance in viſible nature:

18. ‘ Thence proceed the great elements, endued with peculiar
‘ powers, and Mind with operations infinitely ſubtil, the unperiſhable
‘ cauſe of all apparent forms.

19. ‘ This *univerſe*, therefore, is compacted from the minute por-
‘ tions of thoſe ſeven divine and active principles, *the great Soul, or*
‘ *firſt emanation, conſciouſneſs, and five perceptions*; *a* mutable *univerſe*
‘ from immutable *ideas*.

20. ‘ Among them each ſucceeding element acquires the quality of
‘ the preceding; and, in as many degrees as each of them is advanced,
‘ with ſo many properties is it ſaid to be endued.

21. ‘ He too firſt aſſigned to all creatures diſtinct names, diſtinct
‘ acts, and diſtinct occupations; as they had been revealed in the pre-
‘ exiſting *Véda*:

22. ‘ He, the ſupreme Ruler, created an aſſemblage of inferior Dei-
‘ ties, with divine attributes and pure ſouls; and a number of Genii
‘ exquiſitely delicate; and he *preſcribed* the ſacrifice ordained from the
‘ beginning.

23. ‘ From fire, from air, and from the ſun he milked out, *as it*
‘ *were*, the three primordial *Védas*, named *Rĭch*, *Yajuſh*, and *Sáman*,
‘ for the due performance of the ſacrifice.

24. ‘ He

24. ‘ He gave being to time and the diviſions of time, to the ſtars
‘ alſo, and to the planets, to rivers, oceans, and mountains, to level
‘ plains, and uneven valleys,

25. ‘ To devotion, ſpeech, complacency, deſire, and wrath, and to
‘ the creation, which ſhall preſently be mentioned ; for He willed the
‘ exiſtence of all thoſe created things.

26. ‘ For the ſake of diſtinguiſhing actions, He made a total differ-
‘ ence between right and wrong, and enured theſe ſentient creatures
‘ to pleaſure and pain, *cold and heat*, and other oppoſite pairs.

27. ‘ With very minute transformable portions, called *mátrás*, of the
‘ five elements, all this perceptible world was compoſed in fit order ;

28. ‘ And in whatever occupation the ſupreme Lord firſt employed
‘ any vital ſoul, to that occupation the ſame ſoul attaches itſelf ſpon-
‘ taneouſly, when it receives a new body again and again :

29. ‘ Whatever quality, noxious or innocent, harſh or mild, unjuſt
‘ or juſt, falſe or true, He conferred on any being at its creation, the
‘ ſame quality enters it of courſe *on its future births* ;

30. ‘ As the *ſix* ſeaſons of the year attain reſpectively their peculiar
‘ marks in due time and of their own accord, even ſo the ſeveral acts
‘ of each embodied ſpirit *attend it naturally*.

31. ‘ That the human race might be multiplied, He cauſed the
‘ *Bráhmen*, the *Cſhatriya*, the *Vaiſya*, and the *Súdra* (ſo named from
‘ the *ſcripture*, *protection*, *wealth*, and *labour*) to proceed from his
‘ mouth, his arm, his thigh, and his foot.

32. ‘ Having

32. ' Having divided his own ſubſtance, the mighty power became
' half male, half female, *or nature active and paſſive* ; and from that
' female he produced VIRA'J :

33. ' Know Me, O moſt excellent of *Bráhmens*, to be that perſon,
' whom the male *power* VIRA'J, having performed auſtere devotion,
' produced by himſelf; Me, the *ſecondary* framer of all this *viſible world.*

34. ' It was I, who, deſirous of giving birth to a race of men, per-
' formed very difficult religious duties, and firſt produced ten Lords of
' created beings, eminent in holineſs,

35. ' MARI'CHI, ATRI, ANGIRAS, PULASTYA, PULAHA, CRATU,
' PRACHE'TAS, or DACSHA, VASISHT'HA, BHRĬGU, and NA'RADA :

36. ' They, abundant in glory, produced ſeven other *Menus*, toge-
' ther with deities, and the manſions of deities, and *Maharſhis*, or great
' Sages, unlimited in power ;

37. ' Benevolent genii, and fierce giants, blood-thirſty ſavages, hea-
' venly quiriſters, nymphs and demons, huge ſerpents and ſnakes of
' ſmaller ſize, birds of mighty wing, and ſeparate companies of *Pitĭrs*,
' or progenitors of mankind ;

38. ' Lightnings and thunder-bolts, clouds and coloured bows of
' INDRA, falling meteors, earth-rending vapours, comets, and lumina-
' ries of various degrees ;

39. ' Horſe-faced ſylvans, apes, fiſh, and a variety of birds, tame
' cattle, deer, men, and ravenous beaſts with two rows of teeth ;

40. ' Small

40. 'Small and large reptiles, moths, lice, fleas, and common flies, 'with every biting gnat, and immoveable ſubſtances of diſtinct ſorts.

41. 'Thus was this whole aſſemblage of ſtationary and moveable 'bodies framed by thoſe high-minded beings, through the force of 'their own devotion, and at my command, with ſeparate actions 'allotted to each.

42. 'Whatever act is ordained for each of thoſe creatures here 'below, *that* I will now declare to you, together with their order 'in reſpect to birth.

43. 'Cattle and deer, and wild beaſts with two rows of teeth, 'giants, and blood-thirſty ſavages, and the race of men, are born 'from a ſecundine:

44. 'Birds are hatched from eggs; *ſo are* ſnakes, crocodiles, fiſh '*without ſhells*, and tortoiſes, with other animal kinds, terreſtrial, '*as chameleons*, and aquatick, *as ſhell-fiſh*:

45. 'From hot moiſture are born biting gnats, lice, fleas, and 'common flies; theſe, and whatever is of the ſame claſs, are pro-'duced by heat.

46. 'All vegetables, propagated by ſeed or by ſlips, grow from 'ſhoots: ſome herbs, abounding in flowers and fruits, periſh when 'the fruit is mature;

47. 'Other plants, called lords of the foreſt, have no flowers, but 'produce fruit; and, whether they have flowers alſo, or fruit only, '*large woody plants* of both ſorts are named trees.

48. 'There

48. ‘ There are ſhrubs with many ſtalks from the root upwards, ‘ and reeds with ſingle roots but united ſtems, all of different kinds, ‘ and graſſes, and *vines or* climbers, and creepers, which ſpring from a ‘ ſeed or from a ſlip.

49. ‘ Theſe *animals and vegetables*, encircled with multiform dark- ‘ neſs, by reaſon of paſt actions, have internal conſcience, and are ‘ ſenſible of pleaſure and pain.

50. ‘ All tranſmigrations, recorded *in ſacred books*, from the ſtate ‘ of BRAHMA', to that of plants, happen continually in this tre- ‘ mendous world of beings; a world *always* tending to decay.

51. ‘ HE, whoſe powers are incomprehenſible, having thus created ‘ both me and this univerſe, was again abſorbed in the ſupreme ‘ Spirit, changing *the* time *of energy* for *the* time *of repoſe.*

52. ‘ When that power awakes, *(for, though ſlumber be not predicable ‘ of the ſole eternal Mind, infinitely wiſe and infinitely benevolent, yet ‘ it is predicated of* BRAHMA', *figuratively, as a general property of life)* ‘ then has this world its full expanſion; but, when he ſlumbers with ‘ a tranquil ſpirit, then the whole ſyſtem fades away;

53. ‘ For, while he repoſes, *as it were*, in calm ſleep, embodied ‘ ſpirits, endued with principles of action, depart from their ſeveral ‘ acts, and the mind itſelf becomes inert;

54. ‘ And, when they once are abſorbed in that ſupreme eſſence, ‘ then the divine ſoul of all beings withdraws his energy, and ‘ *placidly* ſlumbers;

55. ‘ Then

55. 'Then too this vital ſoul *of created bodies*, with all the organs
'of ſenſe and of action, remains long immerſed *in the firſt idea or in*
'darkneſs, and performs not it natural functions, but migrates from
'its corporeal frame:

56. 'When, being *again* compoſed of minute elementary prin-
'ciples, it enters at once into vegetable or animal ſeed, it then aſſumes
'a *new* form.

57. 'Thus that immutable Power, by waking and repoſing alter-
'nately, revivifies and deſtroys in eternal ſucceſſion this whole aſſem-
'blage of locomotive and immoveable creatures.

58. 'He, having enacted this code of laws, himſelf taught it fully
'to me in the beginning: afterwards I taught it Mari'chi and the
'*nine* other holy ſages.

59. 'This *my ſon* Bhrĭgu will repeat the divine code to you
'without omiſſion; for that ſage learned from me to recite the
'whole of it.'

60. Bhrĭgu, great and wiſe, having thus been appointed by Menu to promulge his laws, addreſſed all the *Rĭſhis* with an affectionate mind, ſaying: 'Hear!

61. 'From this Menu, named Swa'yambhuva, or *Sprung from the*
'*ſelf-exiſting*, came ſix deſcendants, other Menus, *or perfectly under-*
'*ſtanding the ſcripture*, each giving birth to a race of his own, all
'exalted in dignity, eminent in power;

62. 'SWA'RO'CHISHA, AUTTAMI, TA'MASA, RAIVATA likewiſe
' and CHA'CSHUSHA, beaming with glory, and VAIVASWATA, child of
' the ſun.

63. 'The ſeven MENUS, (or *thoſe firſt created, who are to be followed*
' *by ſeven more)* of whom SWA'YAMBHUVA is the chief, have pro-
' duced and ſupported this world of moving and ſtationary beings,
' each in his own *Antara,* or *the period of his reign.*

64. 'Eighteen *niméſhas*, or *twinklings of an eye*, are one *cáſht'há*; thirty
' *cáſht'hás*, one *calá*; thirty *calás*, one *muhúrta:* and juſt ſo many
' *muhúrtas* let mankind conſider as the duration of their day and night.

65. 'The ſun cauſes the diſtribution of day and night both divine
' and human; night being *intended* for the repoſe of *various* beings,
' and day for their exertion.

66. 'A month *of mortals* is a day and a night of the *Pitris* or *pa-*
' *triarchs inhabiting the moon*; and the diviſion *of a month* being into equal
' halves, the half beginning from the full moon is their day for actions;
' and that beginning from the new moon is their night for ſlumber:

67. 'A year *of mortals* is a day and a night of the Gods, or *regents*
' *of the univerſe ſeated round the north pole*; and again their diviſion
' is this: their day is the northern, and their night the ſouthern,
' courſe of the ſun.

68. 'Learn now the duration of a day and a night of BRAHMA',
' and of the ſeveral ages, which ſhall be mentioned in order ſuccinctly.

69. 'Sages

69. 'Sages have given the name of *Crĭta* to an age containing four 'thousand years of the Gods; the twilight preceding it consists of as 'many hundreds, and the twilight following it, of the same number:

70. 'In the other three *ages*, with their twilights preceding and 'following, are thousands and hundreds diminished by one.

71. 'The divine years, in the four *human* ages just enumerated, 'being added together, their sum, *or* twelve thousand, is called 'the age of the Gods;

72. 'And, by reckoning a thousand such divine ages, a day of 'BRAHMA' may be known: his night also has an equal duration:

73. 'Those persons best know the divisions of days and nights, 'who understand, that the day of BRAHMA', which endures to the end 'of a thousand such ages, gives rise to virtuous exertions; and 'that his night endures as long as his day.

74. 'At the close of his night, having long reposed, he awakes, 'and, awaking, exerts intellect, *or reproduces the great principle of* '*animation*, whose property it is to exist unperceived by sense:

75. 'Intellect, called into action by his will to create worlds, per-'forms *again* the work of creation; and thence *first* emerges the subtil 'ether, to which philosophers ascribe the quality of *conveying* sound;

76. 'From ether, effecting a transmutation in form, springs the 'pure and potent air, a vehicle of all scents; and air is held endued 'with the quality of touch:

77. 'Then

77. 'Then from air, operating a change, riſes light *or fire*, making 'objects viſible, diſpelling gloom, ſpreading bright rays; *and* it is 'declared to have the quality of figure;

78. 'But from light, a change being effected, comes water with 'the quality of taſte; and from water is *depoſited* earth with the 'quality of ſmell: ſuch were they created in the beginning.

79. 'The beforementioned age of the Gods, or twelve thouſand '*of their* years, being multiplied by ſeventy-one, *conſtitutes what* is 'here named a *Menwantara, or the reign of a* MENU.

80. 'There are numberleſs *Menwantaras*; creations alſo and de-'ſtructions of worlds, *innumerable:* the Being ſupremely exalted 'performs all this, *with as much eaſe* as if in ſport, again and again '*for the ſake of conferring happineſs*.

81. 'In the *Crĭta* age *the Genius of* truth and right, *in the 'form of a Bull*, ſtands firm on his four feet; nor does any advantage 'accrue to men from iniquity;

82. 'But in the following ages, by reaſon of unjuſt gains, he 'is deprived ſucceſſively of one foot; and even juſt emoluments, 'through the prevalence of theft, falſehood, and fraud, are *gradually* 'diminiſhed by a fourth part.

83. 'Men, free from diſeaſe, attain all ſorts of proſperity and live 'four hundred years, in the *Crĭta* age; but, in the *Trétà* and the ſuc-'ceeding ages, their life is leſſened gradually by one quarter.

84. 'The

84. ‘The life of mortals, which is mentioned in the *Véda*, the ‘rewards of good works, and the powers of embodied ſpirits, are ‘fruits proportioned among men to the order of the *four* ages.

85. ‘Some duties are performed by *good* men in the *Crĭta* age; ‘others, in the *Trétà*; ſome, in the *Dwápara*; others in the *Cali*; ‘in proportion as thoſe ages decreaſe in length.

86. ‘In the *Crĭta* the prevailing virtue is declared to be devotion; ‘in the *Trétà*, divine knowledge; in the *Dwápara*, holy ſages call ‘ſacrifice the duty chiefly performed; in the *Cali*, liberality alone.

87. ‘For the ſake of preſerving this univerſe, the Being ſupremely ‘glorious allotted ſeparate duties to thoſe, who ſprang reſpectively ‘from his mouth, his arm, his thigh, and his foot.

88. ‘To *Bráhmens* he aſſigned the duties of reading the *Véda*, of ‘teaching it, of ſacrificing, of aſſiſting others to ſacrifice, of giving ‘alms, *if they be rich*, and, *if indigent*, of receiving gifts:

89. ‘To defend the people, to give alms, to ſacrifice, to read the ‘*Véda*, to ſhun the allurements of ſenſual gratification, are in few ‘words the duties of a *Cſhatriya:*

90. ‘To keep herds of cattle, to beſtow largeſſes, to ſacrifice, to ‘read the ſcripture, to carry on trade, to lend at intereſt, and to ‘cultivate land, are preſcribed *or permitted* to a *Vaiſya:*

91. ‘One principal duty the ſupreme Ruler aſſigned to a *Súdra*; namely, ‘to ſerve the beforementioned claſſes, without depreciating their worth.

92. ‘Man

92. 'Man is declared purer above the navel; but the ſelf-exiſting 'Power declared the pureſt part of him to be the mouth:

93. 'Since the *Bráhmen* ſprang from the moſt excellent part, ſince 'he was the firſt born, and ſince he poſſeſſes the *Véda*, he is by right 'the chief of this whole creation.

94. 'Him the Being, who exiſts of himſelf, produced in the 'beginning from his own mouth; that, having performed holy 'rites, he might preſent clarified butter to the Gods, and cakes 'of rice to the progenitors of mankind, for the preſervation of this 'world:

95. 'What created being then can ſurpaſs Him, with whoſe 'mouth the Gods of the firmament continually feaſt on clarified 'butter, and the manes of anceſtors, on hallowed cakes?

96. 'Of created things the moſt excellent are thoſe which are 'animated; of the animated, thoſe which ſubſiſt by intelligence; 'of the intelligent, mankind; and of men, the ſacerdotal claſs.

97. 'Of prieſts, thoſe eminent in learning; of the learned, thoſe 'who know their duty; of thoſe who know it, ſuch as perform it 'virtuouſly; and of the virtuous, thoſe who ſeek beatitude from a 'perfect acquaintance with ſcriptural doctrine.

98. 'The very birth of *Bráhmens* is a conſtant incarnation of 'Dherma, *God of Juſtice*; for the *Bráhmen* is born to promote juſtice, 'and to procure ultimate happineſs.

99. 'When

99. ‘ When a *Bráhmen* ſprings to light, he is born above the ‘ world, the chief of all creatures, aſſigned to guard the treaſury ‘ of duties religious and civil.

100. ‘ Whatever exiſts in the univerſe, is all in effect, *though not in* ‘ *form*, the wealth of the *Bráhmen*; ſince the *Bráhmen* is entitled ‘ to it all by his primogeniture and eminence of birth :

101. ‘ The *Bráhmen* eats but his own food; wears but his own ‘ apparel; and beſtows but his own in alms : through the benevolence ‘ of the *Bráhmen*, indeed, other mortals enjoy life.

102. ‘ To declare the ſacerdotal duties, and thoſe of the other claſſes ‘ in due order, the ſage MENU, ſprung from the ſelf-exiſting, pro- ‘ mulged this code of laws;

103. ‘ A code, which muſt be ſtudied with extreme care by every ‘ learned *Bráhmen*, and fully explained to his diſciples, but *muſt be* ‘ *taught* by no other man *of an inferior claſs*.

104. ‘ The *Bráhmen*, who ſtudies this book, having performed ‘ ſacred rites, is perpetually free from offence in thought, in word, ‘ and in deed;

105. ‘ He confers purity on his living family, on his anceſtors, and ‘ on his deſcendants, as far as the ſeventh perſon; and He alone ‘ deſerves to poſſeſs this whole earth.

106. ‘ This moſt excellent code produces every thing auſpicious; ‘ this code increaſes underſtanding; this code procures fame and long ‘ life; this code leads to ſupreme bliſs.

107. ‘ In

107. 'In this book appears the ſyſtem of law in its full extent, 'with the good and bad properties of human actions, and the im- 'memorial cuſtoms of the four claſſes.

108. 'Immemorial cuſtom is tranſcendent law, approved in the 'ſacred ſcripture, and in the codes of divine legiſlators: let every man, 'therefore, of the three principal claſſes, who has a due reverence for 'the *ſupreme* ſpirit *which dwells in him*, diligently and conſtantly 'obſerve immemorial cuſtom:

109. 'A man of the prieſtly, military, or commercial claſs, who 'deviates from immemorial uſage, taſtes not the fruit of the *Véda*; 'but, by an exact obſervance of it, he gathers that fruit in perfection.

110. 'Thus have holy ſages, well knowing that law is grounded on 'immemorial cuſtom, embraced, as the root of all piety, good uſages 'long eſtabliſhed.

111. 'The creation of this univerſe; the forms of inſtitution and 'education, with the obſervances and behaviour of a ſtudent in theo- 'logy; the beſt rules for the ceremony on his return from the manſion 'of his preceptor;

112. 'The law of marriage in general, and of nuptials in different 'forms; the regulations for the great ſacraments, and the manner, 'primevally ſettled, of performing obſequies;

113. 'The modes of gaining ſubſiſtence, and the rules to be obſerved 'by the maſter of a family; the allowance and prohibition of diet, 'with the purification of men and utenſils;

114. 'Laws

114. ‘ Laws concerning women ; the devotion of hermits, and of ‘ anchorets wholly intent on final beatitude, the whole duty of a king, ‘ and the judicial decifion of controverfies,

115. ‘ With the law of evidence and examination ; laws concerning ‘ hufband and wife, canons of inheritance ; the prohibition of gaming, ‘ and the punifhments of criminals ;

116. ‘ Rules ordained for the mercantile and fervile claffes, with the ‘ origin of thofe, that are mixed ; the duties and rights of all the claffes ‘ in time of diftrefs for fubfiftence ; and the penances for expiating ‘ fins ;

117. ‘ The feveral tranfmigrations in this univerfe, caufed by of- ‘ fences of three kinds, with the ultimate blifs attending good actions, ‘ on the full trial of vice and virtue ;

118. ‘ All thefe titles of law, promulgated by MENU, and *occafionally* ‘ the cuftoms of different countries, different tribes, and different fami- ‘ lies, with rules concerning hereticks and companies of traders, are ‘ difcuffed in this code.

119. ‘ Even as MENU at my requeft formerly revealed this divine ‘ *Sáftra,* hear it now from me without any diminution or addition.

CHAPTER THE SECOND.

On Education; or on the Sacerdotal Claſs, and the Firſt Order.

1. ʻKNOW that ſyſtem of duties, which is revered by ſuch as are ʻ learned in the *Védas*, and impreſſed, *as the means of attaining beati-* ʻ *tude*, on the hearts of the juſt, who are ever exempt from hatred ʻ and inordinate affection.

2. ʻ Self-love is no laudable motive, yet an exemption from ſelf-love ʻ is not *to be found* in this world: on ſelf-love is grounded the ſtudy of ʻ ſcripture, and the practice of actions recommended in it.

3. ʻ Eager deſire *to act* has its root in expectation of ſome advantage; ʻ and with ſuch expectation are ſacrifices performed: the rules of reli- ʻ gious auſterity and abſtinence from ſin are all known to ariſe from ʻ hope of remuneration.

4. ʻ Not a ſingle act here below appears ever to be done by a man ʻ free from ſelf-love: whatever he performs, it is wrought from his ʻ deſire of a reward.

5. ʻ He, indeed, who ſhould perſiſt in *diſcharging* theſe duties with- ʻ out any view to their fruit, would attain hereafter the ſtate of the ʻ immortals, and, even in this life, would enjoy all the virtuous gratifi- ʻ cations, that his fancy could ſuggeſt.

6. ʻ The

6. ‘ The roots of law are the whole *Véda*, the ordinances and ‘ moral practices of ſuch as perfectly underſtand it, the immemorial ‘ cuſtoms of good men, and, *in caſes quite indifferent*, ſelf-ſatisfac-‘ tion.

7. ‘ Whatever law has been ordained for any perſon by MENU, that ‘ law is fully declared in the *Véda:* for He was perfect in divine know-‘ ledge:

8. ‘ A man of true learning, who has viewed this complete ſyſtem ‘ with the eye of ſacred wiſdom, cannot fail to perform all thoſe duties, ‘ which are ordained on the authority of the *Véda*.

9. ‘ No doubt, that man, who ſhall follow the rules preſcribed in the ‘ *Sruti* and in the *Smrĭti*, will acquire fame in this life, and, in the ‘ next, inexpreſſible happineſs:

10. ‘ By *Sruti*, or *what was heard from above*, is meant the *Véda*; ‘ and by *Smrĭti*, or *what was remembered from the beginning*, the body of ‘ law: thoſe two muſt not be oppugned by heterodox arguments; ſince ‘ from thoſe two proceeds the whole ſyſtem of duties.

11. ‘ Whatever man of the three higheſt claſſes, having addicted ‘ himſelf to heretical books, ſhall treat with contempt thoſe two roots ‘ of law, he muſt be driven, as an Atheiſt and a ſcorner of revelation, ‘ from the company of the virtuous.

12. ‘ The ſcripture, the codes of law, approved uſage, and, *in all* ‘ *indifferent caſes*, ſelf-ſatisfaction, the wiſe have openly declared to be ‘ the quadruple deſcription of the juridical ſyſtem.

13. ‘ A

13. 'A knowledge of right is a ſufficient incentive for men unat-
'tached to wealth or to ſenſuality; and to thoſe who ſeek a knowledge
'of right, the ſupreme authority is divine revelation;

14. 'But, when there are two ſacred texts *apparently inconſiſtent*,
'both are held to be law; for both are pronounced by the wiſe to be
'valid and reconcileable;

15. 'Thus in the *Véda* are theſe texts: "let the ſacrifice be when
'the ſun has ariſen," and, "before it has riſen," and, "when neither
'ſun nor ſtars can be ſeen:" the ſacrifice, therefore, may be performed
'at any or all of thoſe times.

16. 'He, whoſe life is regulated by holy texts, from his conception
'even to his funeral pile, has a decided right to ſtudy this code; but no
'other man whatſoever.

17. 'BETWEEN the two divine rivers *Saraſwatí* and *Dhrĭſhadwatí*
'lies the tract of land, which the ſages have named *Brahmáverta*,
'becauſe it was frequented by Gods:

18. 'The cuſtom, preſerved by immemorial tradition in that coun-
'try, among the four *pure* claſſes, and among thoſe which are mixed,
'is called approved uſage.

19. '*Curucſhétra*, *Matſya*, *Panchála*, or *Cányacubja*, and *Súraſéna*,
'or *Mat'hurà*, form the region, called *Brahmarſhi*, diſtinguiſhed from
'*Brahmáverta*:

20. 'From a *Bráhmen*, who was born in that country, let all men
'on earth learn their ſeveral uſages.

21. 'That

21. 'That country, which lies between *Himawat* and *Vindhya*, to the 'east of *Vinas'ana,* and to the west of *Prayága,* is celebrated by the 'title of *Medhya-désa,* or *the central region.*

22. 'As far as the eastern, and as far as the western, oceans between 'the two mountains just mentioned, lies the tract, which the wise have 'named *Ariáverta,* or *inhabited by respectable men.*

23. 'That land, on which the black antelope naturally grazes, is 'held fit for the performance of sacrifices; but the land of *Mléch'has,* 'or *those who speak barbarously,* differs widely from it.

24. 'Let the three first classes invariably dwell in those before-'mentioned countries; but a *Súdra,* distressed for subsistence, may 'sojourn wherever he chuses.

25. 'Thus has the origin of law been succinctly declared to you, 'together with the formation of this universe: now learn the laws of 'the several classes.

26. 'With auspicious acts prescribed by the *Véda,* must ceremonies 'on conception and so forth, be duly performed, which purify the 'bodies of the three classes in this life, and *qualify them* for the next.

27. 'By oblations to fire during the mother's pregnancy, by holy 'rites on the birth of the child, by the tonsure of his head with a lock 'of hair left on it, by the ligation of the sacrificial cord, are the semi-'nal and uterine taints of the three classes wholly removed:

28. 'By studying the *Véda,* by religious observances, by oblations 'to fire, by the ceremony of *Traividia,* by offering to the Gods and

'Manes,

'Manes, by the procreation of children, by the five great ſacra-'ments, and by ſolemn ſacrifices, this human body is rendered fit for 'a divine ſtate.

29. 'Before the ſection of the navel ſtring a ceremony is ordained 'on the birth of a male: he muſt be made, while ſacred texts are 'pronounced, to taſte a little honey and clarified butter from a golden 'ſpoon.

30. 'Let the father *perform or, if abſent*, cauſe to be performed, 'on the tenth or twelfth day *after the birth*, the ceremony of giving 'a name; or on ſome fortunate day of the moon, at a lucky hour, 'and under the influence of a ſtar with good qualities.

31. 'The firſt part of a *Bráhmen's* compound name ſhould indicate 'holineſs; of a *Cſhatriya's*, power; of a *Vaiſya's*, wealth; and of a '*Súdra's*, contempt:

32. 'Let the ſecond part of the prieſt's name imply proſperity; 'of the ſoldier's, preſervation; of the merchant's, nouriſhment; of 'the ſervant's, humble attendance.

33. 'The names of women ſhould be agreeable, ſoft, clear, cap-'tivating the fancy, auſpicious, ending in long vowels, reſembling 'words of benediction.

34. 'In the fourth month the child ſhould be carried out of the 'houſe *to ſee the ſun*: in the ſixth month, he ſhould be fed with rice; 'or that *may be done*, which, by the cuſtom of the family, is thought 'moſt propitious.

35. 'By

35. ‘ By the command of the *Véda*, the ceremony of tonſure ſhould ‘ be legally performed by the three *firſt* claſſes in the firſt or third ‘ year *after birth*.

36. ‘ In the eighth year from the conception of a *Bráhmen*, in the ‘ eleventh from that of a *Cſhatriya*, and in the twelfth from that of ‘ a *Vaiſya*, let the father inveſt the child with the mark of his claſs :

37. ‘ Should a *Bráhmen*, or *his father for him*, be deſirous of his ‘ advancement in ſacred knowledge, a *Cſhatriya* of extending his ‘ power, *or* a *Vaiſya* of engaging in mercantile buſineſs, the in- ‘ veſtiture may be made in the fifth, ſixth, or eighth years re- ‘ ſpectively.

38. ‘ The ceremony of inveſtiture hallowed by the *gáyatrí* muſt ‘ not be delayed, in the caſe of a prieſt, beyond the ſixteenth year; ‘ nor, in that of a ſoldier, beyond the twenty-ſecond; nor in that of ‘ a merchant, beyond the twenty-fourth.

39. ‘ After that, *all youths of* theſe three claſſes, who have not been ‘ inveſted at the proper time, become *vrátyas*, or outcaſts, degraded ‘ from the *gáyatrí*, and contemned by the virtuous :

40. ‘ With ſuch impure men, let no *Bráhmen*, even in diſtreſs for ‘ ſubſiſtence, ever form a connexion in law, either by the ſtudy of ‘ the *Véda*, or by affinity.

41. ‘ Let ſtudents in theology wear *for their mantles* the hides ‘ of black antelopes, of common deer, or of goats with *lower veſts of* ‘ woven *s'ana*, of *cſhumà*, and of wool, in the direct order of their claſſes.

42. ‘ The

42. ‘The girdle of a prieſt muſt be made of *munja*, in a triple ‘cord, ſmooth and ſoft; that of a warrior muſt be a bow ſtring of ‘*múrvá*; that of a merchant, a triple thread of *s'ana*.

43. ‘If the *munja* be not procurable, their zones muſt be formed ‘*reſpectively* of the graſſes *cuſa*, *aſmántaca*, *valvaja*, in triple ſtrings ‘with one, three, or five knots, *according to the family cuſtom*.

44. ‘The ſacrificial thread of a *Bráhmen* muſt be made of cotton, ‘ſo as to be put on over his head, in three ſtrings; that of a *Cſhatriya*, ‘of *s'ana* thread only; that of a *Vais'ya* of woollen thread.

45. ‘A prieſt ought by law to carry a ſtaff of *Bilva* or *Paláſa*, a ‘ſoldier, of *Bata* or *C'hadira*; a merchant of *Vénu*, or *Udumbara*:

46. ‘The ſtaff of a prieſt muſt be of ſuch a length as to reach his ‘hair; that of a ſoldier, to reach his forehead; and that of a mer-‘chant, to reach his noſe.

47. ‘Let all the ſtaves be ſtraight, without fracture, of a handſome ‘appearance, not likely to terrify men, with their bark perfect, unhurt ‘by fire.

48. ‘Having taken a legal ſtaff to his liking, and ſtanding oppoſite ‘to the ſun, let the ſtudent thrice walk round the fire from left to ‘right, and perform, according to law, the ceremony of aſking ‘food:

49. ‘The moſt excellent of the three claſſes, being girt with the ‘ſacrificial thread, muſt aſk food with the reſpectful word *bhavati*, ‘at the beginning of the phraſe; thoſe of the ſecond claſs, with

'that word in the middle; and thofe of the third, with that word 'at the end.

50. 'Let him firft beg food of his mother, or of his fifter, or 'of his mother's whole fifter; and then of fome other female who 'will not difgrace him.

51. 'Having collected as much of the defired food as he has 'occafion for, and having prefented it without guile to his preceptor, 'let him eat fome of it, being duly purified, with his face to the eaft:

52. 'If he feek long life, he fhould eat with his face to the eaft; 'if exalted fame, to the fouth; if profperity, to the weft; if truth *and* '*its reward*, to the north.

53. 'Let the ftudent, having performed his ablution, always eat his 'food without diftraction of mind; and, having eaten, let him *thrice* 'wafh his mouth completely, fprinkling with water the *fix* hollow 'parts of his head, *or his eyes, ears, and noftrils*.

54. 'Let him honour all his food, and eat it without contempt; 'when he fees it, let him rejoice and be calm, and pray, that he may 'always obtain it.

55. 'Food, eaten conftantly with refpect, gives mufcular force and 'generative power; but, eaten irreverently, deftroys them both.

56. 'He muft beware of giving any man what he leaves; and of 'eating any thing between *morning and evening:* he muft alfo beware 'of eating too much, and of going any whither with a remnant 'of his food unfwallowed.

57. 'Exceffive

57. 'Exceſſive eating is prejudicial to health, to fame, and to 'future bliſs in heaven; it is injurious to virtue, and odious among 'men: he muſt, for theſe reaſons, by all means avoid it.

58. 'Let a *Bráhmen* at all times perform the ablution with the pure 'part of his hand denominated from the *Véda*, or with the part ſacred 'to the Lord of creatures, or with that dedicated to the Gods; but 'never with the part named from the *Pitrĭs*:

59. 'The pure part under the root of the thumb is called *Bráhma*; 'that at the root of the little finger, *Cáya*; that at the tips of 'the fingers, *Daiva*; and the part between the thumb and index, '*Pitrya*.

60. 'Let him firſt ſip water thrice; then twice wipe his mouth; 'and laſtly touch with water the *ſix before mentioned* cavities, his 'breaſt, and his head.

61. 'He, who knows the law, and ſeeks purity, will ever perform his 'ablution with the pure part of his hand, and with water neither 'hot nor frothy, ſtanding in a lonely place, and turning to the eaſt 'or the north.

62. 'A *Bráhmen* is purified by water that reaches his boſom; a '*Cſhatriya*, by water deſcending to his throat; a *Vaiſya*, by water 'barely taken into his mouth; a *Súdra* by water touched with the 'extremity of his lips.

63. 'A youth of the three higheſt claſſes is named *upavíti*, when 'his right hand is extended *for the cord to paſs over his head and 'be fixed on his left ſhoulder*; when his left hand is extended, *that*

'*the*

'*the thread may be placed on his right ſhoulder*, he is called *práchínávítí*; 'and *nivítí*, when it is faſtened on his neck.

64. 'His girdle, his leathern mantle, his ſtaff, his ſacrificial cord, 'and his ewer, he muſt throw into the water, when they are worn 'out or broken, and receive others hallowed by myſtical texts.

65. 'The ceremony of *céſánta*, or *cutting off the hair*, is ordained 'for a prieſt in the ſixteenth year from conception; for a ſoldier, in 'the twenty-ſecond; for a merchant, two years later than that.

66. 'The ſame ceremonies, *except that of the ſacrificial thread*, 'muſt be duly performed for women at the ſame age and in the ſame 'order, that the body may be made perfect; but without any texts 'from the *Véda:*

67. 'The nuptial ceremony is conſidered as the complete inſtitution 'of women, ordained for them in the *Véda*, together with reverence 'to their huſbands, dwelling firſt in their father's family, the buſineſs 'of the houſe, and attention to ſacred fire.

68. 'Such is the revealed law of inſtitution for the twice born; an 'inſtitution, in which their ſecond birth clearly conſiſts, and which 'cauſes their advancement in holineſs: now learn to what duties they 'muſt afterwards apply themſelves.

69. 'The venerable preceptor, having girt his pupil with the 'thread, muſt firſt inſtruct him in purification, in good cuſtoms, 'in the management of the conſecrated fire, and in the holy rites 'of morning, noon, and evening.

70. 'When

70. ' When the ſtudent is going to read the *Véda,* he muſt perform ' an ablution, as the law ordains, with his face to the north; and, ' having paid ſcriptural homage, he muſt receive inſtruction, wearing ' a clean veſt, his members being duly compoſed:

71. ' At the beginning and end of the lecture, he muſt always claſp ' both the feet of his preceptor; and he muſt read with both his hands ' cloſed: (this is called ſcriptural homage.)

72. ' With croſſed hands let him claſp the feet of his tutor, touching ' the left foot with his left, and the right with his right, hand.

73. ' When he is prepared for the lecture, the preceptor, conſtantly ' attentive, muſt ſay: "hoa! read;" and, at the cloſe of the leſſon, he ' muſt ſay: " take reſt."

74. ' A *Bráhmen,* beginning and ending a lecture on the *Véda,* muſt ' always pronounce to himſelf the ſyllable *óm*; for, unleſs the ſyllable ' *óm* precede, his learning will ſlip away from him; and, unleſs it ' follow, nothing will be long retained.

75. ' If he have ſitten on culms of *cus'a* with their points toward ' the eaſt, and be purified by *rubbing* that holy graſs on both his ' hands, and be further prepared by three ſuppreſſions of breath, *each* ' *equal in time to five ſhort vowels,* he then may fitly pronounce *óm.*

76. ' BRAHMA' milked out, *as it were,* from the three *Védas,* the ' letter A, the letter U, and the letter M, *which form by their coalition* ' *the triliteral monoſyllable,* together with three myſterious words, *bhur,* ' *bhuvah, ſwer,* or *earth, ſky, heaven:*

77. ' From

77. ‘ From the three *Védas* alſo the Lord of creatures, incompre-
‘ henſibly exalted, ſucceſſively milked out the three meaſures of that
‘ ineffable text, beginning with the word *tad*, and entitled *ſávitrí* or
‘ *gáyatrì.*

78. ‘ A prieſt who ſhall know the *Véda*, and ſhall pronounce to
‘ himſelf, both morning and evening, that ſyllable, and that holy text
‘ preceded by the three words, ſhall attain the ſanctity which the *Véda*
‘ confers ;

79. ‘ And a twice born man, who ſhall a thouſand times repeat
‘ thoſe three (or *óm*, the *vyáhrĭtis*, and the *gáyatrí,)* apart *from the*
‘ *multitude*, ſhall be releaſed in a month even from a great offence, as
‘ a ſnake from his ſlough.

80. ‘ The prieſt, the ſoldier, and the merchant, who ſhall neglect
‘ this myſterious text, and fail to perform in due ſeaſon his peculiar
‘ acts of piety, ſhall meet with contempt among the virtuous.

81. ‘ The three great immutable words, preceded by the triliter
‘ ſyllable, and *followed by* the *gáyatrí*, which conſiſts of three meaſures,
‘ muſt be conſidered as the mouth, or *principal part*, of the *Véda :*

82. ‘ Whoever ſhall repeat, day by day for three years, without
‘ negligence, that ſacred text, ſhall *hereafter* approach the divine
‘ eſſence, move as freely as air, and aſſume an ethereal form.

83. ‘ The triliteral monoſyllable is *an emblem of* the Supreme; the
‘ ſuppreſſions of breath *with a mind fixed on* God, are the higheſt devo-
‘ *tion ;* but nothing is more exalted than the *gáyatrí : a declaration of*
‘ truth is more excellent than ſilence.

84. ‘ All

84. ‘ All rites ordained in the *Véda*, oblations to fire, and ſolemn ‘ ſacrifices, paſs away; but that, which paſſes not away, is declared to ‘ be the ſyllable *óm*, thence called *acſhara*; ſince it is a *ſymbol of* God, ‘ the Lord of created Beings.

85. ‘ The act of repeating his Holy Name is ten times better ‘ than the appointed ſacrifice; a hundred times better, when it is ‘ heard by no man; and a thouſand times better, when it is purely ‘ mental:

86. ‘ The four domeſtic ſacraments, which are accompanied with the ‘ appointed ſacrifice, are not equal, though all be united, to a ſixteenth ‘ part of the ſacrifice performed by a repetition of the *gáyatrí:*

87. ‘ By the ſole repetition of the *gáyatrí*, a prieſt may indubitably ‘ attain beatitude, let him perform, or not perform, any other religious ‘ act; if he be *Maitra*, or a *friend to all creatures*, he is *juſtly* named ‘ *Bráhmena*, or *united to the Great One*.

88. ‘ In reſtraining the organs, which run wild among raviſhing ‘ ſenſualities, a wiſe man will apply diligent care, like a charioteer in ‘ managing reſtive horſes.

89. ‘ Thoſe eleven organs, to which the firſt ſages gave names, I ‘ will comprehenſively enumerate, as the law conſiders them, in due ‘ order.

90. ‘ The noſe is the fifth, after the ears, the ſkin, the eyes, and the ‘ tongue; and the organs of ſpeech are reckoned the tenth, after thoſe ‘ of excretion and generation, and the hands and feet:

91. ‘ Five

91. 'Five of them, the ear and the reſt in ſucceſſion, learned men 'have called organs of ſenſe; and the others, organs of action:

92. 'The heart muſt be conſidered as the eleventh; which, by its 'natural property, compriſes both ſenſe and action; and which being 'ſubdued, the two other ſets, with five in each, are alſo controlled.

93. 'A man, by the attachment of his organs to ſenſual pleaſure, 'incurs certain guilt; but, having wholly ſubdued them, he thence 'attains heavenly bliſs.

94. 'Deſire is never ſatisfied with the enjoyment of deſired objects; 'as the fire is not appeaſed with clarified butter: it only blazes more 'vehemently.

95. 'Whatever man may obtain all thoſe gratifications, or whatever 'man may reſign them completely, the reſignation of all pleaſures is 'far better than the attainment of them.

96. 'The organs, being ſtrongly attached to ſenſual delights, cannot 'ſo effectually be reſtrained by avoiding incentives to pleaſure, as by a 'conſtant purſuit of divine knowledge.

97. 'To a man contaminated by ſenſuality neither the *Védas*, nor 'liberality, nor ſacrifices, nor ſtrict obſervances, nor pious auſterities, 'ever procure felicity.

98. 'He muſt be conſidered as really triumphant over his organs, 'who, on hearing and touching, on ſeeing and taſting and ſmelling, '*what may pleaſe or offend the ſenſes*, neither greatly rejoices nor greatly 'repines:

99. 'But,

99. ' But, when one among all his organs fails, by that ſingle failure ' his knowledge of GOD paſſes away, as water flows through one hole ' in a leathern bottle.

100. ' Having kept all his members *of ſenſe and action* under control, ' and obtained alſo command over his heart, he will enjoy every ' advantage, even though he reduce not his body by religious auſte- ' rities.

101. ' At the morning twilight, let him ſtand repeating the *gáyatrí*, ' until he ſee the ſun; and, at evening twilight, let him repeat it ' ſitting, until the ſtars diſtinctly appear:

102. ' He, who ſtands repeating it at the morning twilight, removes ' *all unknown* nocturnal ſin; and he, who repeats it ſitting at evening ' twilight, diſperſes the taint, that has *unknowingly* been contracted in ' the day;

103. ' But he, who ſtands not repeating it in the morning, and ſits ' not repeating it in the evening, muſt be precluded, like a *Súdra*, ' from every ſacred obſervance of the twice born claſſes.

104. ' Near pure water, with his organs holden under control, *and* ' retiring with circumſpection to ſome unfrequented place, let him ' pronounce the *gáyatrí*, performing daily ceremonies.

105. ' IN reading the *Védángas*, or *grammar*, *proſody*, *mathematicks*, ' *and ſo forth*, or even ſuch parts of the *Véda*, as ought conſtantly to ' be read, there is no prohibition on particular days; nor in pronounc- ' ing the texts appointed for oblations to fire:

106. 'Of that, which muſt conſtantly be read, and is therefore 'called *Brahmaſatra*, there can be no ſuch prohibition; and the obla-'tion to fire, according to the *Véda*, produces good fruit, though ac-'companied with the text *vaſhat'*, which *on other occaſions* muſt be 'intermitted on certain days.

107. 'For him, who ſhall perſiſt a whole year in reading the *Véda*, 'his organs being kept in ſubjection, and his body pure, there will 'always riſe good fruit from his *offerings of* milk and curds, *of* clarified 'butter and honey.

108. 'LET the twice born youth, who has been girt with the ſacri-'ficial cord, collect wood for the holy fire, beg food of his relations, 'ſleep on a low bed, and perform ſuch offices as may pleaſe his pre-'ceptor, until his return to the houſe of his natural father.

109. 'Ten perſons may legally be inſtructed in the *Véda*; the ſon 'of a ſpiritual teacher; a boy, who is aſſiduous; one who can impart 'other knowledge; one who is juſt; one who is pure; one who is 'friendly; one who is powerful; one who can beſtow wealth; one 'who is honeſt; and one who is related by blood.

110. 'Let not a ſenſible teacher tell any *other* what he is not aſked, 'nor what he is aſked improperly; but let him, however intelligent, 'act in the multitude, as if he were dumb:

111. 'Of the two perſons, him, who illegally aſks, and him, who 'illegally anſwers, one will die, or incur odium.

112. 'Where virtue, and wealth *ſufficient to ſecure it*, are not found, 'or diligent attention, *at leaſt* proportioned *to the holineſs of the ſubject*,

'in

‘ in that ſoil divine inſtruction muſt not be ſown: it would periſh,
‘ like fine ſeed in barren land.

113. ‘ A teacher of the *Véda* ſhould rather die with his learning, ‘ than ſow it in ſterile ſoil, even though he be in grievous diſtreſs for ‘ ſubſiſtence.

114. ‘ Sacred Learning, having approached a *Bráhmen*, ſaid to him: “ I am thy precious gem; preſerve me with care; deliver me not to “ a ſcorner; (ſo *preſerved* I ſhall become ſupremely ſtrong)

115. “ But communicate me, as to a vigilant depoſitary of thy gem, “ to that ſtudent, whom thou ſhalt know to be pure, to have ſubdued “ his paſſions, to perform the duties of his order.”

116. ‘ He, who ſhall acquire *knowledge of* the *Véda*, without the ‘ aſſent of his preceptor, incurs the guilt of ſtealing the ſcripture, and ‘ ſhall ſink to the region of torment.

117. ‘ From whatever teacher a ſtudent has received inſtruction, ‘ either popular, ceremonial, or ſacred, let him firſt ſalute his in- ‘ ſtructor, when they meet.

118. ‘ A *Bráhmen*, who completely governs his paſſions, though he ‘ know the *gáyatrí* only, is more honourable than he, who governs not ‘ his paſſions, who eats all *ſorts of food*, and ſells all *ſorts of commodi-* ‘ *ties*, even though he know the three *Védas*.

119. ‘ When a ſuperiour ſits on a couch or bench, let not an inferiour ‘ ſit on it with him; and, if an inferiour be ſitting on a couch, let him ‘ riſe to ſalute a ſuperiour.

120. ‘ The

120. ' The vital ſpirits of a young man mount upwards *to depart* ' *from him,* when an elder approaches; but, by riſing and ſalutation, he ' recovers them.

121. ' A youth, who habitually greets and conſtantly reveres the ' aged, obtains an increaſe of four things; life, knowledge, fame, ' ſtrength.

122. ' After the word of ſalutation, a *Bráhmen* muſt addreſs an ' elder, ſaying: " I am ſuch an one;" pronouncing his own name.

123. ' If any perſons, *through ignorance of the* Sanſcrit *language,* ' underſtand not the import of his name, to them ſhould a learned man ' ſay: " It is I;" and in that manner he ſhould addreſs all *claſſes of* ' women.

124. ' In the ſalutation he ſhould pronounce, after his own name, ' the vocative particle *bhós*; for the particle *bhós* is held by the wiſe to ' have the ſame property with names *fully expreſſed.*

125. ' A *Bráhmen* ſhould thus be ſaluted in return: " May'ſt thou " live long, excellent man!" and, at the end of his name, the vowel ' and preceding conſonant ſhould be lengthened, *with an acute accent,* ' to three ſyllabick moments, *or ſhort vowels.*

126. ' That *Bráhmen,* who knows not the form of returning a ſalu- ' tation, muſt not be ſaluted by a man of learning: as a *Súdra,* even ' ſo is he.

127. ' Let a learned man aſk a prieſt, when he meets him, if his ' devotion proſpers; a warriour, if he is unhurt; a merchant, if his ' wealth

'wealth is ſecure; and one of the ſervile claſs, if he enjoys good 'health; *uſing reſpectively the words,* cus'alam, anámayam, cſhémam, '*and* árógyam.

128. 'He, who has juſt performed a ſolemn ſacrifice and 'ablution, muſt not be addreſſed by his name, even though he be 'a younger man; but he, who knows the law, ſhould accoſt him 'with the vocative particle, or with *bhavat*, the pronoun of re- 'ſpect.

129. 'To the wife of another, and to any woman not related by 'blood, he muſt ſay "*bhavati*, and amiable ſiſter."

130. 'To his uncles paternal and maternal, to his wife's father, to 'performers of the ſacrifice, and to ſpiritual teachers, he muſt ſay: "I am ſuch an one"—riſing up to ſalute them, even though younger 'than himſelf.

131. 'The ſiſter of his mother, the wife of his maternal uncle, his 'own wife's mother, and the ſiſter of his father, muſt be ſaluted like 'the wife of his father or preceptor: they are equal to his father's or 'his preceptor's wife.

132. 'The wife of his brother, if ſhe be of the ſame claſs, muſt be 'ſaluted every day; but his paternal and maternal kinſwomen need 'only be greeted on his return from a journey.

133. 'With the ſiſter of his father and of his mother, and with his 'own elder ſiſter, let him demean himſelf as with his mother; though 'his mother be more venerable than they.

134. 'Fel-

134. 'Fellow citizens are equal for ten years; dancers and ſingers, 'for five; learned theologians, for leſs than three; but perſons related 'by blood, for a ſhort time: *that is, a greater difference of age deſtroys 'their equality.*

135. 'The ſtudent muſt conſider a *Bráhmen,* though but ten years 'old, and a *Cſhatriya,* though aged a hundred years, as father and 'ſon; as between thoſe two, the young *Bráhmen* is *to be reſpected as* 'the father.

136. 'Wealth, kindred, age, moral conduct, and, fifthly, divine 'knowledge, entitle men to reſpect; but that, which is laſt mentioned 'in order, is the moſt reſpectable.

137. 'Whatever man of the three *higheſt* claſſes poſſeſſes the moſt 'of thoſe five, both in number and degree, that man is entitled to moſt 'reſpect; even a *Súdra,* if he have entered the tenth decad of his age.

138. 'Way muſt be made for a man in a wheeled carriage, or 'above ninety years old, or afflicted with diſeaſe, or carrying a bur-'den; for a woman; for a prieſt juſt returned from the manſion of 'his preceptor; for a prince, and for a bridegroom:

139. 'Among all thoſe, if they be met at one time, the prieſt juſt 'returned home and the prince are moſt to be honoured; and of 'thoſe two, the prieſt juſt returned ſhould be treated with more 'reſpect than the prince.

140. 'That prieſt, who girds his pupil with the ſacrificial cord, and 'afterwards inſtructs him in the whole *Véda,* with the law of ſacrifice 'and the ſacred *Upaniſhads,* holy ſages call an *áchárya:*

141. 'But

141. ‘ But he, who, for his livelihood, gives inſtruction in a part ‘ only of the *Véda*, or in grammar, and other *Védángas*, is called an ‘ *upádhyáya*, or ſublecturer.

142. ‘ The father, who performs the ceremonies on conception and ‘ the like, according to law, and who nouriſhes the child with his ‘ firſt rice, has the epithet of *guru*, or venerable.

143. ‘ He, who receives a ſtipend for preparing the holy fire, for ‘ conducting the *páca* and *agniſhtóma*, and for performing other ſacri- ‘ fices, is called in this code the *rĭtwij* of his employer.

144. ‘ He, who truly and faithfully fills both ears with the *Véda*, ‘ muſt be conſidered as equal to a mother ; He muſt be revered as a ‘ father ; Him the pupil muſt never grieve.

145. ‘ A mere *áchárya*, or *a teacher of the* gáyatrí *only*, ſurpaſſes ten ‘ *upádhyáyas* ; a father, a hundred ſuch *áchāryas* ; and a mother, a ‘ thouſand natural fathers.

146. ‘ Of him, who gives natural birth, and him, who gives know- ‘ ledge of the whole *Véda*, the giver of ſacred knowledge is the more ‘ venerable father ; ſince the *ſecond or* divine birth enſures life to the ‘ twice born both in this world and hereafter eternally.

147. ‘ Let a man conſider that as a mere human birth, which his ‘ parents gave him for their mutual gratification, and which he re- ‘ ceives after lying in the womb ;

148. ‘ But that birth, which his principal *áchárya* who knows the ‘ whole *Véda*, procures for him by his *divine mother* the *Gáyatrí*, is a ‘ true birth : that birth is exempt from age and from death.

149. ‘ Him,

149. ‘ Him, who confers on a man the benefit of ſacred learning, ‘ whether it be little or much, let him know to be here named *guru*, ‘ or *venerable father*, in conſequence of that heavenly benefit.

150. ‘ A *Bráhmen*, who is the giver of ſpiritual birth, the teacher of ‘ preſcribed duty, is by right *called* the father of an old man, though ‘ himſelf be a child.

151. ‘ CAVI, or *the learned*, child of ANGIRAS, taught his paternal ‘ uncles and couſins to read the *Véda*, and, excelling them in divine ‘ knowledge, ſaid to them “ little ſons :”

152. ‘ They, moved with reſentment, aſked the Gods the meaning ‘ of that *expreſſion*; and the Gods, being aſſembled, anſwered them: “ The child has addreſſed you properly ;

153. “ For an unlearned man is in truth a child; and he, who teaches “ him the *Véda*, is his father: holy ſages have always ſaid child to an “ ignorant man, and father to a teacher of ſcripture.”

154. ‘ Greatneſs is not conferred by years, not by gray hairs, not ‘ by wealth, not by powerful kindred: the divine ſages have eſta‘ bliſhed this rule: “ Whoever has read the *Védas* and their *Angas*, “ He among us is great.”

155. ‘ The ſeniority of prieſts is from ſacred learning; of warriours, ‘ from valour; of merchants, from abundance of grain; of the ſervile ‘ claſs, only from priority of birth.

156. ‘ A man is not therefore aged, becauſe his head is gray: him, ‘ ſurely, the Gods conſidered as aged, who, though young in years, ‘ has read *and underſtands* the *Véda*.

157. ‘ As

157. ‘ As an elephant made of wood, as an antelope made of lea-
‘ ther, ſuch is an unlearned *Bráhmen:* thoſe three have nothing but
‘ names.

158. ‘ As an eunuch is unproductive with women, as a cow with
‘ a cow is unprolifick, as liberality to a fool is fruitleſs, ſo is a *Bráhmen*
‘ uſeleſs, if he read not the holy texts.

159. ‘ Good inſtruction muſt be given without pain to the inſtructed;
‘ and ſweet gentle ſpeech muſt be uſed by a preceptor, who cheriſhes
‘ virtue.

160. ‘ He, whoſe diſcourſe and heart are pure, and ever perfectly
‘ guarded, attains all the fruit ariſing from his complete courſe of
‘ ſtudying the *Véda.*

161. ‘ Let not a man be querulous, even though in pain; let him
‘ not injure another in deed or in thought; let him not even utter a
‘ word, by which his fellow creature may ſuffer uneaſineſs; ſince that
‘ will obſtruct his own progreſs to future beatitude.

162. ‘ A *Bráhmen* ſhould conſtantly ſhun wordly honour, as he
‘ would ſhun poiſon; and rather conſtantly ſeek diſreſpect, as he
‘ would ſeek nectar;

163. ‘ For though ſcorned, he may ſleep with pleaſure; with pleaſure
‘ may he awake; with pleaſure may he paſs through this life: but the
‘ ſcorner utterly periſhes.

164. ‘ Let the twice born youth, whoſe ſoul has been formed
‘ by this regular ſucceſſion of preſcribed acts, collect by degrees, while

'he dwells with his preceptor, the devout habits proceeding from the 'ſtudy of ſcripture.

165. 'With various modes of devotion, and with auſterities or-'dained by the law, muſt the whole *Véda* be read, and above all 'the ſacred *Upaniſhads*, by him, who has received a new birth.

166. 'Let the beſt of the twice born claſſes, intending to practiſe 'devotion, continually repeat the reading of ſcripture; ſince a re-'petition of reading the ſcripture is here ſtyled the higheſt devotion of 'a *Bráhmen:*

167. 'Yes verily; that ſtudent in theology performs the higheſt act 'of devotion *with his whole body* to the extremities of his nails, even 'though he *be ſo far ſenſual as to* wear a chaplet of ſweet flowers, who 'to the utmoſt of his ability daily reads the *Véda.*

168. 'A twice born man, who, not having ſtudied the *Véda*, applies 'diligent attention to a different *and worldly* ſtudy, ſoon falls, even 'when living, to the condition of a *Súdra*; and his deſcendants after 'him.

169. 'The firſt birth is from a natural mother; the ſecond, from the 'ligation of the zone; the third, from the due performance of the 'ſacrifice; ſuch are the births of him, who is uſually called twice born, 'according to the text of the *Véda:*

170. 'Among them his divine birth is that, which is diſtinguiſhed 'by the ligation of the zone *and ſacrificial cord*; and in that *birth* 'the *Gáyatri* is his mother, and the *A'chárya*, his father.

171. 'Sages

171. ‘ Sages call the *A'chárya* father from his giving inſtruction in ‘ the *Véda:* nor can any holy rite be performed by a young man ‘ before his inveſtiture.

172. ‘ *Till he be inveſted with the ſigns of his claſs*, he muſt not pro- ‘ nounce any ſacred text, except what ought to be uſed in obſequies ‘ to an anceſtor; ſince he is on a level with a *Súdra* before his new ‘ birth from the revealed ſcripture:

173. ‘ From him, who has been duly inveſted, are required both ‘ the performance of devout acts, and the ſtudy of the *Véda* in order, ‘ preceded by ſtated ceremonies.

174. ‘ Whatever ſort of leathern mantle, ſacrificial thread, and ‘ zone, whatever ſtaff, and whatever under-apparel are ordained, *as* ‘ *before mentioned*, for a youth of each claſs, the like muſt alſo be ‘ uſed in his religious acts.

175. ‘ Theſe *following* rules muſt a *Brahmachárí*, or *ſtudent in theology*, ‘ obſerve, while he dwells with his preceptor; keeping all his members ‘ under control, for the ſake of increaſing his habitual devotion.

176. ‘ Day by day, having bathed and being purified, let him offer ‘ freſh water to the Gods, the Sages, and the Manes; let him ſhow ‘ reſpect to the images of the deities, and bring wood for the oblation ‘ to fire.

177. ‘ Let him abſtain from honey, from fleſh meat, from perfumes, ‘ from chaplets of flowers, from ſweet vegetable juices, from women, ‘ from all ſweet ſubſtances turned acid, and from injury to animated ‘ beings;

178. ‘ From

178. ‘ From unguents for his limbs, and from black powder for ‘ his eyes, from wearing ſandals and carrying an umbrella, from ‘ ſenſual deſire, from wrath, from covetouſneſs, from dancing, and ‘ from vocal and inſtrumental muſick ;

179. ‘ From gaming, from diſputes, from detraction, and from falſe-‘ hood, from embracing or wantonly looking at women, and from ‘ diſſervice to other men.

180. ‘ Let him ſleep conſtantly alone : let him never waſte his own ‘ manhood ; for he, who voluntarily waſtes his manhood, violates the ‘ rule of his order, *and becomes an* avacírní :

181. ‘ A twice born youth, who has involuntarily waſted his manly ‘ ſtrength during ſleep, muſt repeat with reverence, having bathed and ‘ paid homage to the ſun, this text of ſcripture : “ *Again let my ſtrength* “ *return to me*.”

182. ‘ Let him carry water-pots, flowers, cow-dung, freſh earth, ‘ and *cuśa*-glaſs, as much as may be uſeful to his preceptor ; and let ‘ him perform every day the duty of a religious mendicant.

183. ‘ Each day muſt a *Bráhmen* ſtudent receive his food by begging, ‘ with due care, from the houſes of perſons renowned for diſcharging ‘ their duties, and not deficient in performing the ſacrifices, which the ‘ *Véda* ordains.

184. ‘ Let him not beg from the couſins of his preceptor ; nor from ‘ his own couſins ; nor from other kinſmen by the father's ſide, or by ‘ the mother's ; but, if other houſes be not acceſſible, let him begin ‘ with the laſt of thoſe in order, avoiding the firſt ;

185. ‘ Or,

185. ' Or, if none of thoſe *houſes* juſt mentioned can be found, ' let him go begging through the whole diſtrict round the village, ' keeping his organs in ſubjection, and remaining ſilent: but let him ' turn away from ſuch, as have committed any deadly ſin.

186. ' Having brought logs of wood from a diſtance, let him place ' them in the open air; and with them let him make an oblation to ' fire, without remiſſneſs, both evening and morning.

187. ' He, who for ſeven ſucceſſive days omits the ceremony of ' begging food, and offers not wood to the ſacred fire, muſt perform the ' penance of an *avacírnì*, unleſs he be afflicted with illneſs.

188. ' Let the ſtudent perſiſt conſtantly in ſuch begging, but let him ' not eat the food of one perſon only: the ſubſiſtence of a ſtudent by ' begging is held equal to faſting *in religious merit*.

189. ' Yet, when he is aſked on a ſolemn act in honour of the Gods ' or the Manes, he may eat at his pleaſure the food of a ſingle perſon; ' obſerving, however, the laws of abſtinence and the auſterity of an ' anchoret: thus the rule of his order is kept inviolate.

190. ' This duty of a mendicant is ordained by the wiſe for a *Bráhmen* ' only; but no ſuch act is appointed for a warriour or for a merchant.

191. ' Let the ſcholar, when commanded by his preceptor, and ' even when he has received no command, always exert himſelf in ' reading, and in all acts uſeful to his teacher.

192. ' Keeping in due ſubjection his body, his ſpeech, his organs ' of ſenſe, and his heart, let him ſtand, with the palms of his hands ' joined, looking at the face of his preceptor.

193. ' Let

193. 'Let him always keep his right arm uncovered, be always 'decently apparelled, and properly compofed; and, when his inftructor 'fays "be feated," let him fit oppofite to his venerable guide.

194. 'In the prefence of his preceptor let him always eat lefs, and 'wear a coarfer mantle with worfe appendages: let him rife before, 'and go to reft after, his tutor.

195. 'Let him not anfwer his teacher's orders, or converfe with 'him, reclining on a bed; nor fitting, nor eating, nor ftanding, nor 'with an averted face:

196. 'But let him both *anfwer and converfe*, if his preceptor fit, 'ftanding up; if he ftand, advancing toward him; if he advance, 'meeting him; if he run, haftening after him;

197. 'If his face be averted, going round to front him, *from left to* '*right*; if he be at a little diftance, approaching him; if reclined, 'bending to him; and, if he ftand ever fo far off, running toward 'him.

198. 'When his teacher is nigh, let his couch or his bench be 'always placed low: when his preceptor's eye can obferve him, let 'him not fit carelefsly at eafe.

199 'Let him never pronounce the mere name of his tutor, even 'in his abfence; nor ever mimick his gait, his fpeech, or his manner.

200. 'In whatever place, either true but cenforious, or falfe and 'defamatory, difcourfe is held concerning his teacher, let him there 'cover his ears, or remove to another place.

201. 'By

201. ‘ By cenſuring his preceptor, though juſtly, he will be born an ‘ aſs; by falſely defaming him, a dog; by uſing his goods without ‘ leave, a ſmall worm; by envying his merit, a larger inſect or ‘ reptile.

202. ‘ He muſt not ſerve his tutor by the intervention of another, ‘ while himſelf ſtands aloof; nor muſt he attend him in a paſſion, nor ‘ when a woman is near: from a carriage or raiſed ſeat he muſt de- ‘ ſcend to ſalute his heavenly director.

203. ‘ Let him not ſit with his preceptor to the leeward or to the ‘ windward of him; nor let him ſay any thing, which the venerable ‘ man cannot hear.

204. ‘ He may ſit with his teacher in a carriage drawn by bulls, ‘ horſes, or camels; on a terrace, on a pavement of ſtones, or on a ‘ mat of woven graſs; on a rock, on a wooden bench, or in a boat.

205. ‘ When his tutor's tutor is near, let him demean himſelf as if ‘ his own were preſent; nor let him, unleſs ordered by his ſpiritual ‘ father, proſtrate himſelf *in his preſence* before his natural father, or ‘ paternal uncle.

206. ‘ This is likewiſe ordained as his conſtant behaviour toward ‘ his other inſtructors in ſcience; toward his elder paternal kinſmen; ‘ toward all, who may reſtrain him from ſin, and all, who give him ‘ ſalutary advice.

207. ‘ Toward men alſo, who are truly virtuous, let him always ‘ behave as toward his preceptor; and, in like manner toward the ‘ ſons of his teacher, who are entitled to reſpect *as older men, and*

‘ *are*

'*are not ſtudents*; and toward the paternal kinſmen of his venerable 'tutor.

208. 'The ſon of his preceptor, whether younger or of equal age, 'or a ſtudent, if he be capable of teaching the *Véda*, deſerves the ſame 'honour with the preceptor himſelf, *when he is preſent* at any ſacri-'ficial act:

209. 'But he muſt not perform for the ſon of his teacher the duty 'of rubbing his limbs, or of bathing him, or of eating what he leaves, 'or of waſhing his feet.

210. 'The wives of his preceptor, if they be of the ſame claſs, muſt 'receive equal honour with their venerable huſband; but, if they be of 'a different claſs, they muſt be honoured only by riſing and ſalutation.

211. 'For no wife of his teacher muſt he perform the offices of 'pouring ſcented oil on them, of attending them while they bathe, of 'rubbing their legs and arms, or of decking their hair;

212. 'Nor muſt a young wife of his preceptor be greeted even by 'the ceremony of touching her feet, if he have completed his twen-'tieth year, or can diſtinguiſh virtue from vice.

213. 'It is the nature of women in this world to cauſe the ſeduction 'of men; for which reaſon the wiſe are never unguarded in the com-'pany of females:

214. 'A female, indeed, is able to draw from the right path in this 'life not a fool only, but even a ſage, and can lead him in ſubjection 'to deſire or to wrath.

215. 'Let

215. ‘ Let not a man, therefore, ſit in a ſequeſtered place with his ‘ neareſt female relations : the aſſemblage of corporeal organs is powerful enough to ſnatch wiſdom from the wiſe.

216. ‘ A young ſtudent may, as the law directs, make proſtration ‘ at his pleaſure on the ground before a young wife of his tutor, ſaying : “ I am ſuch an one ;”

217. ‘ And, on his return from a journey, he muſt once touch the ‘ feet of his preceptor’s *aged* wife, and ſalute her each day by proſtration, calling to mind the practice of virtuous men.

218. ‘ As he, who digs deep with a ſpade, comes to a ſpring of water, ‘ ſo the ſtudent, who humbly ſerves his teacher, attains the knowledge ‘ which lies deep in his teacher’s mind.

219. ‘ WHETHER his head be ſhorn, or his hair long, or one lock ‘ be bound above in a knot, let not the ſun ever ſet or riſe, while he lies ‘ aſleep in the village.

220. ‘ If the ſun ſhould riſe or ſet, while he ſleeps through ſenſual ‘ indulgence, and knows it not, he muſt faſt a whole day repeating ‘ the *gáyatrí :*

221. ‘ He, who has been ſurpriſed aſleep by the ſetting or by the ‘ riſing ſun, and performs not that penance, incurs great guilt.

222. ‘ Let him adore GOD both at ſunriſe and at ſunſet, as the law ‘ ordains, having made his ablution and keeping his organs controlled ; ‘ and, with fixed attention, let him repeat the text, which he ought to ‘ repeat, in a place free from impurity.

223. ‘ If a woman or a *Súdra* perform any act leading to the chief ‘ temporal good, let the student be careful to emulate it; and he may ‘ do whatever gratifies his heart, unless it be forbidden by law:

224. ‘ The chief temporal good is by some declared to consist in ‘ virtue and wealth; by some, in wealth and lawful pleasure; by some, ‘ in virtue alone; by others, in wealth alone; but the chief good here ‘ below is an assemblage of all three: this is a sure decision.

225. ‘ A TEACHER of the *Véda* is the image of GOD; a natural ‘ father, the image of BRAHMA'; a mother, the image of the earth; ‘ an elder whole brother, the image of the soul:

226. ‘ Therefore, a spiritual and a natural father, a mother, and an ‘ elder brother, are not to be treated with disrespect, especially by a ‘ *Bráhmen*, though the student be grievously provoked.

227. ‘ That pain and care, which a mother and father undergo in ‘ producing and rearing children, cannot be compensated in an hundred ‘ years.

228. ‘ Let every man constantly do what may please his parents, ‘ and on all occasions what may please his preceptor: when those ‘ three are satisfied, his whole course of devotion is accomplished.

229. ‘ Due reverence to those three is considered as the highest devo- ‘ tion; and without their approbation he must perform no other duty.

230. ‘ Since they alone are held equal to the three worlds; they ‘ alone, to the three principal orders; they alone, to the three *Védas*; ‘ they alone, to the three fires:

231. ‘ The

231. ‘ The natural father is conſidered as the *gárhapatya*, or nuptial ‘ fire; the mother, as the *dacſhina*, or ceremonial; the ſpiritual guide, ‘ as the *áhavaníya*, or ſacrificial: this triad of fires is moſt venerable.

232. ‘ He, who neglects not thoſe three, when he becomes a houſe- ‘ keeper, will ultimately obtain dominion over the three worlds; and, ‘ his body being irradiated like a God, he will enjoy ſupreme bliſs in ‘ heaven.

233. ‘ By honouring his mother he gains this *terreſtrial* world; by ‘ honouring his father, the intermediate, or *etherial*; and, by aſſiduous ‘ attention to his preceptor, even the *celeſtial* world of BRAHMÁ:

234. ‘ All duties are completely performed by that man, by whom ‘ thoſe three are completely honoured; but to him, by whom they are ‘ diſhonoured, all other acts of duty are fruitleſs.

235. ‘ As long as thoſe three live, ſo long he muſt perform no other ‘ duty *for his own ſake*; but, delighting in what may conciliate their ‘ affections and gratify their wiſhes, he muſt from day to day aſſiduouſly ‘ wait on them:

236. ‘ Whatever duty he may perform in thought, word, or deed, ‘ with a view to the next world, without derogation from his reſpect ‘ to them, he muſt declare to them his entire performance of it.

237. ‘ By honouring thoſe three, without more, a man effectually ‘ does whatever ought to be done: this is the higheſt duty, appearing ‘ before us like DHERMA himſelf, and every other act is an *Upadherma*, ‘ or ſubordinate duty.

238. ‘ A

238. 'A believer in ſcripture may receive pure knowledge even 'from a *Súdra*; a leſſon of the higheſt virtue, even from a *Chandála*; 'and a woman bright as a gem, even from the baſeſt family:

239. 'Even from poiſon may nectar be taken; even from a child, 'gentleneſs of ſpeech; even from a foe, prudent conduct; and even 'from an impure ſubſtauce, gold.

240. 'From every quarter, therefore, muſt be ſelected women bright 'as gems, knowledge, virtue, purity, gentle ſpeech, and various liberal 'arts.

241. 'In caſe of neceſſity, a ſtudent is required to learn the *Véda* 'from one who is not a *Bráhmen*, and, as long as that inſtruction con-'tinues, to honour his inſtructor with obſequious aſſiduity;

242. 'But a pupil, who ſeeks the incomparable path to heaven, 'ſhould not live to the end of his days in the dwelling of a precep-'tor, who is no *Bráhmen*, or who has not read all the *Védas* with their '*Angas*.

243. 'If he anxiouſly deſire to paſs his whole life in the houſe of a 'ſacerdotal teacher, he muſt ſerve him with aſſiduous care, till he be 'releaſed from his mortal frame:

244. 'That *Bráhmen*, who has dutifully attended his preceptor till 'the diſſolution of his body, paſſes directly to the eternal manſion of 'God.

245. 'Let not a ſtudent, who knows his duty, preſent any gift to 'his preceptor *before his return home*; but when, by his tutor's permiſ-

'ſion,

'ſion, he is going to perform the ceremony on his return, let him give 'the venerable man ſome valuable thing to the beſt of his power;

246. 'A field, or gold, a jewel, a cow, or a horſe, an umbrella, 'a pair of ſandals, a ſtool, corn, cloths, or even any very excellent 'vegetable: thus will he gain the affectionate remembrance of his 'inſtructor.

247. 'The ſtudent for life muſt, if his teacher die, attend on his 'virtuous ſon, or his widow, or on one of his paternal kinſmen, with 'the ſame reſpect, which he ſhowed to the living:

248. 'Should none of thoſe be alive, he muſt occupy the ſtation of 'his preceptor, the ſeat, and the place of religious exerciſes; muſt 'continually pay due attention to the fires, which he had conſecrated; 'and muſt prepare his own ſoul for heaven.

249. 'The twice born man, who ſhall thus without intermiſſion 'have paſſed the time of his ſtudentſhip, ſhall aſcend after death to 'the moſt exalted of regions, and no more again ſpring to birth in this 'lower world.

CHAPTER THE THIRD.

On Marriage; or, on the Second Order.

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1. ‘THE diſcipline of a ſtudent in the three *Védas* may be continued ‘ for thirty-ſix years, in the houſe of his preceptor; or for half that ‘ time, or for a quarter of it, or until he perfectly comprehend them:

2. ‘ A ſtudent, whoſe rules have not been violated, may aſſume the ‘ order of a married man, after he has read in ſucceſſion a *s'ác'há*, or ‘ branch, from each of the three, or from two, or from any one of ‘ them.

3. ‘ Being juſtly applauded for the ſtrict performance of his duty, ‘ and having received from his *natural or ſpiritual* father the ſacred ‘ gift of the *Véda*, let him ſit on an elegant bed, decked with a garland ‘ of flowers; and let his father honour him, before his nuptials, with a ‘ preſent of a cow.

4. ‘ Let the twice born man, having obtained the conſent of his ‘ venerable guide, and having performed his ablution with ſtated cere- ‘ monies on his return home, as the law directs, eſpouſe a wife of the ‘ ſame claſs with himſelf and endued with the marks of excellence.

5. ‘ She, who is not deſcended from his *paternal or maternal* anceſ- ‘ tors within the ſixth degree, and who is not *known by her family*

‘ *name*

‘ *name to be* of the ſame primitive ſtock with his father *or mother*, is
‘ eligible by a twice born man for nuptials and holy union:

6. ‘ In connecting himſelf with a wife, let him ſtudiouſly avoid the ‘ ten following families, be they ever ſo great, or ever ſo rich in kine, ‘ goats, ſheep, gold, and grain:

7. ‘ The family, which has omitted preſcribed acts of religion; that, ‘ which has produced no male children; that, in which the *Véda* has ‘ not been read; that, which has thick hair on the body; and thoſe, ‘ which have been ſubject to hemorrhoids, to phthiſis, to dyſpepſia, to ‘ epilepſy, to leproſy, and to elephantiaſis.

8. ‘ Let him not marry a girl with reddiſh hair, nor with any de- ‘ formed limb; nor one troubled with habitual ſickneſs; nor one either ‘ with no hair or with too much; nor one immoderately talkative; ‘ nor one with inflamed eyes;

9. ‘ Nor one with the name of a conſtellation, of a tree, or of a ‘ river, of a barbarous nation, or of a mountain, of a winged creature, ‘ a ſnake, or a ſlave; nor with any name raiſing an image of terrour.

10. ‘ Let him chuſe for his wife a girl, whoſe form has no defect; ‘ who has an agreeable name; who walks *gracefully* like a phenicop- ‘ teros or like a young elephant; whoſe hair and teeth are moderate ‘ reſpectively in quantity and in ſize; whoſe body has exquiſite ſoftneſs.

11. ‘ Her, who has no brother, or whoſe father is not well known, ‘ let no ſenſible man eſpouſe, through fear leſt, *in the former caſe*, her ‘ father ſhould take her firſt ſon as his own *to perform his obſequies*; or, ‘ *in the ſecond caſe*, leſt an illicit marriage ſhould be contracted.

12. ‘ For

12. 'For the firſt marriage of the twice born claſſes a woman of 'the ſame claſs is recommended; but for ſuch, as are impelled by 'inclination to marry again, women in the direct order of the claſſes 'are to be preferred:

13. 'A *Súdra* woman only muſt be the wife of a *Súdra*; ſhe and a '*Vaiſyà*, of a *Vaiſya*; they two and a *Cſhatriyá*, of a *Cſhatriya*; thoſe 'two and a *Bráhmanì*, of a *Bráhmen*.

14. 'A woman of the ſervile claſs is not mentioned, even in the 'recital of any ancient ſtory, as the firſt wife of a *Bráhmen* or of a '*Cſhatriya*, though in the greateſt difficulty to find a ſuitable match.

15. 'Men of the twice born claſſes, who, through weakneſs of 'intellect, irregularly marry women of the loweſt claſs, very ſoon 'degrade their families and progeny to the ſtate of *Súdras:*

16. 'According to ATRI and to (GO'TAMA) the ſon of UTAT'HYA, 'he, who *thus* marries a woman of the ſervile claſs, *if he be a* '*prieſt*, is degraded inſtantly; according to SAUNACA, on the birth 'of a ſon, *if he be a warriour*; and, *if he be a merchant*, on the birth 'of a ſon's ſon, according to (me) BHRĬGU.

17. 'A *Bráhmen*, if he take a *Súdra* to his bed, *as his firſt wife*, 'ſinks to the regions of torment; if he beget a child by her, he loſes 'even his prieſtly rank:

18. 'His ſacrifices to the Gods, his oblations to the Manes, and 'his hoſpitable attentions to ſtrangers, muſt be ſupplied principally by 'her; but the Gods and Manes will not eat ſuch offerings; nor can 'heaven be attained by ſuch hoſpitality.

19. 'For the crime of him, who *thus illegally* drinks the moiſture of 'a *Súdra's* lips, who is tainted by her breath, and who even begets a 'child on her body, the law declares no expiation.

20. 'Now learn compendiouſly the eight forms of the nuptial cere-'mony uſed by the four claſſes, ſome good and ſome bad in this 'world and in the next:

21. 'The ceremony of BRAHMA', of the *Dévas*, of the *Rĭſhis*, of 'the *Prajápatis*, of the *Aſuras*, of the *Gandharvas*, and of the *Rac-'ſhaſas*; the eighth and baſeſt is that of the *Piſáchas*.

22. 'Which of them is permitted by law to each claſs, and what 'are the good and bad properties of each ceremony, all this I will fully 'declare to you, together with the qualities, good and bad, of the 'offspring.

23. 'Let mankind know, that *the ſix firſt* in direct order are *by ſome 'held* valid in the caſe of a prieſt; the four laſt in that of a warriour; 'and the ſame four, except the *Rácſhaſa* marriage, in the caſes of a 'merchant and a man of the ſervile claſs:

24. 'Some conſider the four firſt only as approved in the caſe of 'a prieſt; one, that of *Racſhaſas*, as peculiar to a ſoldier; and, that of '*Aſuras*, to a mercantile and a ſervile man:

25. 'But in this code, three of *the five laſt* are held legal, and two ille-'gal: the ceremonies of *Piſáchas* and *Aſuras* muſt never be performed.

26. 'For a military man the beforementioned marriages of *Gand-'harvas* and *Racſhaſas*, whether ſeparate, or mixed, *as when a girl is*

'made

'*made captive by her lover, after a victory over her kinſmen*, are per-
'mitted by law.

27. 'The gift of a daughter, clothed only with a ſingle robe, to a 'man learned in the *Véda*, whom her father voluntarily invites and 'reſpectfully receives, is the nuptial rite called *Bráhma*.

28. 'The rite, which ſages call *Daiva*, is the gift of a daughter, 'whom her father has decked in gay attire, when the ſacrifice is 'already begun, to the officiating prieſt, who performs that act of 'religion.

29. 'When the father gives his daughter away, after having re-'ceived from the bridegroom one pair of kine, or two pairs, for uſes 'preſcribed by law, that marriage is termed *A'rſha*.

30. 'The nuptial rite called *Prájápatya* is, when the father gives 'away his daughter with due honour, ſaying diſtinctly: "May both of "you perform together your civil and religious duties!"

31. 'When the bridegroom, having given as much wealth as he 'can afford to the father and paternal kinſmen, and to the damſel 'herſelf, takes her voluntarily as his bride, that marriage is named '*A'ſura*.

32. 'The reciprocal connection of a youth and a damſel, with 'mutual deſire, is the marriage denominated *Gándharva*, contracted 'for the purpoſe of amorous embraces, and proceeding from ſenſual 'inclination.

33. 'The

33. 'The ſeizure of a maiden by force from her houſe, while ſhe
' weeps and calls for aſſiſtance, after her kinſmen and friends have been
' ſlain in battle, or wounded, and their houſes broken open, is the
' marriage ſtyled *Rácſhaſa*.

34. 'When the lover ſecretly embraces the damſel, either ſleeping
' or fluſhed with ſtrong liquor, or diſordered in her intellect, that
' ſinful marriage, called *Paiſácha*, is the eighth and the baſeſt.

35. 'The gift of daughters in marriage by the ſacerdotal claſs is
' moſt approved, when they previouſly have poured water into the
' hands of the bridegroom; but the ceremonies of the other claſſes
' may be performed according to their ſeveral fancies.

36. 'Among theſe nuptial rites, what quality is aſcribed by MENU
' to each, hear now, ye *Bráhmens*, hear it all from me, who fully
' declare it!

37. 'The ſon of a *Bráhmì*, or wife by the firſt ceremony, redeems
' from ſin, if he perform virtuous acts, ten anceſtors, ten deſcendants,
' and himſelf the twenty-firſt perſon.

38. 'A ſon, born of a wife by the *Daiva* nuptials, redeems ſeven and
' ſeven in higher and lower degrees; of a wife by the *A'rſha*, three and
' three; of a wife by the *Prájápatya*, ſix and ſix.

39. 'By four marriages, the *Bráhma* and ſo forth, in direct order,
' are born ſons illumined by the *Véda*, learned men, beloved by the
' learned,

40. 'Adorned

40. ‘ Adorned with beauty, and with the quality of goodneſs, wealthy, ‘ famed, amply gratified with lawful enjoyments, performing all duties, ‘ and living a hundred years :

41. ‘ But in the other *four* baſe marriages, which remain, are pro- ‘ duced ſons acting cruelly, ſpeaking falſely, abhorring the *Véda*, and ‘ the duties preſcribed in it.

42. ‘ From the blameleſs nuptial rites of men ſprings a blameleſs ‘ progeny ; from the reprehenſible, a reprehenſible offspring : let man- ‘ kind, therefore, ſtudiouſly avoid the culpable forms of marriage.

43. ‘ The ceremony of joining hands is appointed for thoſe, who ‘ marry women of their own claſs ; but, with women of a different ‘ claſs, the following nuptial ceremonies are to be obſerved :

44. ‘ By a *Cſhatriyà*, on her marriage with a *Bráhmen*, an arrow ‘ muſt be held in her hand ; by a *Vaiſyà* woman, with a bridegroom ‘ *of the ſacerdotal or military claſs*, a whip ; *and* by a *Súdrà* bride, ‘ *marrying a prieſt, a ſoldier, or a merchant*, muſt be held the ſkirt of a ‘ mantle.

45. ‘ Let the huſband approach his wife in due ſeaſon, *that is, at* ‘ *the time fit for pregnancy* ; let him be conſtantly ſatisfied with her ‘ alone ; but, except on the forbidden days of the moon, he may ‘ approach her, being affectionately diſpoſed, *even out of due ſeaſon*, ‘ with a deſire of conjugal intercourſe.

46. ‘ Sixteen days and nights in each month, with four diſtinct ‘ days neglected by the virtuous, are called the natural ſeaſon of wo- ‘ men :

47. ‘ Of

47. 'Of thoſe ſixteen, the four firſt, the eleventh, and the thir-
'teenth, are reprehended: the ten remaining nights are approved.

48. 'Some ſay, that on the even nights are conceived ſons; on the
'odd nights, daughters: therefore let the man, who wiſhes for a ſon,
'approach his wife in due ſeaſon on the even nights;

49. 'But a boy is in truth produced by the greater quantity of the
'male ſtrength; and a girl, by a greater quantity of the female; by
'equality, an hermaphrodite, or a boy and a girl; by weakneſs or de-
'ficiency, is occaſioned a failure of conception.

50. 'He, who avoids conjugal embraces on the ſix reprehended
'nights and on eight others, is equal in chaſtity to a *Brahmachárì*, in
'whichever of the *two next* orders he may live.

51. 'LET no father, who knows the law, receive a gratuity, however
'ſmall, for giving his daughter in marriage; ſince the man, who, through
'avarice, takes a gratuity *for that purpoſe*, is a ſeller of his offspring.

52. 'Whatever male relations, through deluſion of mind, take
'poſſeſſion of a woman's property, be it only her carriages or her
'clothes, ſuch offenders will ſink to a region of torment.

53. 'Some ſay, that the bull and cow *given* in the nuptial ceremony
'of the *Riſhis*, are a bribe to the father; but this is untrue: a bribe
'*indeed*, whether large or ſmall, is an actual ſale of *the daughter*.

54. 'When money or goods are given to damſels, whoſe kinſmen
'receive them not for their own uſe, it is no ſale: it is merely a token
'of courteſy and affection to the brides.

55. 'Married

55. 'Married women muſt be honoured and adorned by their fathers 'and brethren, by their huſbands, and by the brethren of their huſ-'bands, if they ſeek abundant proſperity:

56. 'Where females are honoured, there the deities are pleaſed; but 'where they are diſhonoured, there all religious acts become fruitleſs.

57. 'Where female relations are made miſerable, the family of him, 'who makes them ſo, very ſoon wholly periſhes; but, where they are 'not unhappy, the family always increaſes.

58. 'On whatever houſes the women of a family, not being duly 'honoured, pronounce an imprecation, thoſe houſes, with all that 'belong to them, utterly periſh, as if deſtroyed by a ſacrifice for the 'death of an enemy.

59. 'Let thoſe women, therefore, be continually ſupplied with 'ornaments, apparel, and food, at feſtivals and at jubilees, by men 'deſirous of wealth.

60. 'In whatever family the huſband is contented with his wife, 'and the wife with her huſband, in that houſe will fortune be aſſuredly 'permanent.

61. 'Certainly, if the wife be not elegantly attired, ſhe will not 'exhilarate her huſband, and, if her lord want hilarity, offspring 'will not be produced.

62. 'A wife being gaily adorned, her whole houſe is embelliſhed; but, 'if ſhe be deſtitute of ornament, all will be deprived of decoration.

63. 'By

63. 'By culpable marriages, by omiſſion of preſcribed ceremonies, 'by neglect of reading the *Véda*, and by irreverence toward a *Bráhmen*, 'great families are ſunk to a low ſtate:

64. 'So they are by practiſing manual arts, by *lending at intereſt and 'other* pecuniary tranſactions, by begetting children on *Súdras* only; by 'traffick in kine, horſes, and carriages, by agriculture, and by attend-'ance on a king.

65. 'By ſacrificing for ſuch, as have no right to ſacrifice, and by 'denying a future compenſation for good works, great families, being 'deprived of ſacred knowledge, are quickly deſtroyed;

66. 'But families, enriched by a knowledge of the *Véda*, though 'poſſeſſing little temporal wealth, are numbered among the great, and 'acquire exalted fame.

67. 'Let the houſe-keeper perform domeſtic religious rites, with 'the nuptial fire, according to law, and the ceremonies of the five 'great ſacraments, and the ſeveral acts, which muſt day by day be 'performed.

68. 'A houſe-keeper has five places of ſlaughter, *or where ſmall 'living creatures may be ſlain*, his kitchen-hearth, his grind-ſtone, his 'broom, his peſtle and mortar, his water-pot; by uſing which, he 'becomes in bondage to ſin:

69. 'For the ſake of expiating *offences committed ignorantly* in 'thoſe places *mentioned* in order, the five great ſacraments were ap-'pointed by eminent ſages to be performed each day by ſuch as keep 'houſe.

70. 'Teaching

70. 'Teaching and ſtudying the ſcripture is the ſacrament of the
'*Véda*; offering cakes and water, the ſacrament of the Manes; an
'oblation to fire, the ſacrament of the Deities; giving rice or other
'food to living creatures, the ſacrament of ſpirits; receiving gueſts
'with honour, the ſacrament of men:

71. 'Whoever omits not thoſe five great ceremonies, if he have ability *to perform them*, is untainted by the ſins of the *five* ſlaughtering places, even though he conſtantly reſide at home;

72. 'But whoever cheriſhes not five orders of beings, *namely*, the deities; thoſe, who demand hoſpitality; thoſe, whom he ought by law to maintain; his departed fore-fathers; and himſelf; that man lives not, even though he breathe.

73. 'Some call the five ſacraments *ahuta* and *huta*, *prahuta*, *bráhmya-huta*, and *práſita:*

74. '*Ahuta*, or unoffered, is divine ſtudy; *huta*, or offered, is the oblation to fire; *prahuta*, or well offered, is the food given to ſpirits; *bráhmya-huta* is reſpect ſhewn to twice-born gueſts; and *práſita*, or well eaten, is the offering of rice or water to the manes of anceſtors.

75. 'Let every man in this ſecond order employ himſelf daily in reading the ſcripture, and in performing the ſacrament of the Gods; for, being employed in the ſacrament of deities, he ſupports this whole animal and vegetable world;

76. 'Since his oblation of clarified butter, duly caſt into the flame, aſcends in ſmoke to the ſun; from the ſun it falls in rain; from

'rain comes vegetable food; and from ſuch food animals derive their
'ſubſiſtence.

77. 'As all creatures ſubſiſt by receiving ſupport from air, thus all
'orders of men exiſt by receiving ſupport from houſe-keepers;

78. 'And, ſince men of the three other orders are each day nou-
'riſhed by them with divine learning and with food, a houſe-keeper
'is for this reaſon of the moſt eminent order:

79. 'That order, therefore, muſt be conſtantly ſuſtained with great
'care by the man, who ſeeks unperiſhable bliſs in heaven, and in this
'world pleaſurable ſenſations; an order, which cannot be ſuſtained by
'men with uncontrolled organs.

80. 'The divine ſages, the manes, the gods, the ſpirits, and gueſts,
'pray for benefits to maſters of families; let theſe honours, therefore,
'be done to them by the houſe-keeper, who knows his duty:

81. 'Let him honour the ſages by ſtudying the *Véda*; the gods, by
'oblations to fire ordained by law; the manes, by pious obſequies;
'men, by ſupplying them with food; and ſpirits, by gifts to all ani-
'mated creatures.

82. 'Each day let him perform a *ſráddha* with boiled rice and the
'like, or with water, or with milk, roots, and fruit; for thus he ob-
'tains favour from departed progenitors.

83. 'He may entertain one *Bráhmen* in that ſacrament among the
'five, which is performed for the *Pitrĭs*; but, at the oblation to all the
'Gods, let him not invite even a ſingle prieſt.

84. 'In

84. 'In his domestick fire for dressing the food of all the Gods, after 'the prescribed ceremony, let a *Bráhmen* make an oblation each day 'to these *following* divinities;

85. 'First to AGNI, god of fire, and to the Lunar God, severally; 'then, to both of them at once; next, to the assembled Gods; and af-'terwards, to DHANWANTARI, God of Medicine;

86. 'To CUHU', goddess of the day, when the new moon is discern-'ible; to ANUMATI, goddess of the day after the opposition; to PRA-'JA'PATI, or the Lord of Creatures; to DYA'VA' and PRITHIVI', god-'desses of sky and earth; and lastly, to the fire of the good sacrifice.

87. 'Having thus, with fixed attention, offered clarified butter in all 'quarters, proceeding *from the east* in a southern direction, to INDRA, 'YAMA, VARUNA, and the god SO'MA, let him offer his gift to 'animated creatures:

88. '*Saying*, "I salute the *Maruts*," or *Winds*, let him throw dressed 'rice near the door; *saying*, "I salute the water gods," in water; 'and on his pestle and mortar, *saying*, "I salute the gods of large "trees."

89. 'Let him do the like *in the north east, or* near his pillow, to 'SRI', the goddess of abundance; *in the south west, or* at the foot of 'his bed, to the propitious goddess BHADRACA'LI'; in the centre of his 'mansion, to BRAHMA' and his household God;

90. 'To all the Gods assembled, let him throw up his oblation in 'open air; by day, to the spirits, who walk in light; and by night 'to those, who walk in darkness:

91. 'In

91. ‘ In the building on his houſetop, *or behind his back*, let him caſt ‘ his oblation for the welfare of all creatures; and what remains let ‘ him give to the *Pitrĭs* with his face toward the ſouth:

92. ‘ The ſhare of dogs, of outcaſts, of dogfeeders, of ſinful men ‘ puniſhed with elephantiaſis or conſumption, of crows, and of reptiles, ‘ let him drop on the ground by little and little.

93. ‘ A *Bráhmen*, who thus each day ſhall honour all beings, ‘ will go to the higheſt region in a ſtraight path, with an irradiated ‘ form.

94. ‘ When he has performed this duty of making oblations, let him ‘ cauſe his gueſt to take food before himſelf; and let him give a por- ‘ tion of rice, as the law ordains, to the mendicant, who ſtudies the ‘ *Véda*.

95. ‘ Whatever fruit ſhall be obtained by that ſtudent, as the reward ‘ of his virtue, when he ſhall have given a cow to his preceptor, ac- ‘ cording to law, the like reward of virtue ſhall be obtained by the ‘ twice-born houſe-keeper, when he has given a mouthful of rice to ‘ the religious mendicant.

96. ‘ To a *Bráhmen*, who knows the true principle of the *Véda*, let ‘ him preſent a portion of rice, or a pot of water garniſhed with fruit ‘ and flowers, due ceremonies having preceded:

97. ‘ Shares of oblations to the gods, or to the manes, utterly periſh, ‘ when preſented, through deluſion of mind, by men regardleſs of duty, ‘ to ſuch ignorant *Bráhmens*, as are mere aſhes;

98. ‘ But

98. 'But an offering in the fire of a ſacerdotal mouth, which richly 'blazes with true knowledge and piety, will releaſe the giver from 'diſtreſs, and even from deadly ſin.

99. 'To the gueſt, who comes of his own accord, let him offer a 'ſeat and water, with ſuch food as he is able to prepare, after the due 'rites of courteſy.

100. 'A *Bráhmen*, coming as a gueſt, and not received with juſt 'honour, takes to himſelf all the reward of the houſe-keeper's former 'virtue, even though he had been ſo temperate as to live on the glean-'ings of harveſts, and ſo pious as to make oblations in five diſtinct 'fires.

101. 'Graſs and earth to ſit on, water to waſh the feet, and, fourthly, 'affectionate ſpeech are at no time deficient in the manſions of the 'good, *although they may be indigent*.

102. 'A *Bráhmen*, ſtaying but one night as a gueſt, is called an '*atit'hi*; ſince, continuing ſo ſhort a time, he is *not* even a ſojourner 'for a whole *tit'hi*, or *day of the moon*.

103. 'The houſe-keeper muſt not conſider as an *atit'hi* a mere 'viſitor of the ſame town, or a *Bráhmen*, who attends him on buſineſs, 'even though he come to the houſe, where his wife dwells, and where 'his fires are kindled.

104. 'Should any houſe-keepers be ſo ſenſeleſs, as to ſeek, on pre-'tence of being gueſts, the food of others, they would fall after death, 'by reaſon of that baſeneſs, to the condition of cattle belonging to the 'giver of ſuch food.

105. 'No

105. 'No gueſt muſt be diſmiſſed in the evening by a houſe-keeper: 'he is ſent by the retiring ſun; and, whether he come in fit ſeaſon or 'unſeaſonably, he muſt not ſojourn in the houſe without entertain-'ment.

106. 'Let not himſelf eat any delicate food, without aſking his 'gueſt to partake of it: the ſatisfaction of a gueſt will aſſuredly bring 'the houſe-keeper wealth, reputation, long life, and a place in heaven.

107. 'To the higheſt gueſts in the beſt form, to the loweſt in 'the worſt, to the equal, equally, let him offer ſeats, reſting places, 'couches; giving them proportionable attendance, when they depart; 'and honour, as long as they ſtay.

108. 'Should another gueſt arrive, when the oblation to all the 'Gods is concluded, for him alſo let the houſe-keeper prepare food, 'according to his ability; but let him not repeat his offerings to ani-'mated beings.

109. 'Let no *Bráhmen* gueſt proclaim his family and anceſtry for 'the ſake of an entertainment; ſince he, who thus proclaims them, is 'called by the wiſe a *vántáſi*, or foulfeeding demon.

110. 'A military man is not denominated a gueſt in the houſe of a '*Bráhmen*; nor a man of the commercial or ſervile claſs; nor his 'familiar friend; nor his paternal kinſman; nor his preceptor:

111. 'But, if a warriour come to his houſe in the form of a gueſt, 'let food be prepared for him, according to his deſire, after the before 'mentioned *Bráhmens* have eaten.

112. 'Even

112. ‘ Even to a merchant or a labourer, approaching his houſe in ‘ the manner of gueſts, let him give food, ſhowing marks of benevo- ‘ lence, at the ſame time with his domeſticks :

113. ‘ To others, as familiar friends, and the reſt before named, ‘ who come with affection to his place of abode, let him ſerve a ‘ repaſt at the ſame time with his wife *and himſelf*, having amply pro- ‘ vided it according to his beſt means.

114. ‘ To a bride, and to a damſel, to the ſick, and to pregnant ‘ women, let him give food, even before his gueſts, without heſitation.

115. ‘ The idiot, who firſt eats his own meſs, without having pre- ‘ ſented food to the perſons juſt enumerated, knows not, while he crams, ‘ that he will himſelf be food after death for bandogs and vultures.

116. ‘ After the repaſt of the *Bráhmen* gueſt, of his kinſmen, and ‘ his domeſticks, the married couple may eat what remains untouched.

117. ‘ The houſe-keeper, having honoured ſpirits, holy ſages, men, ‘ progenitors, and houſehold gods, may feed on what remains after ‘ thoſe oblations.

118. ‘ He, who eats what has been dreſſed for himſelf only, eats ‘ nothing but ſin: a repaſt on what remains, after the ſacraments, is ‘ called the banquet of the good.

119. ‘ After a year from the reception of a viſitor, let the houſe- ‘ keeper again honour a king, a ſacrificer, a ſtudent returned from his ‘ preceptor, a ſon in law, a father in law, and a maternal uncle, ‘ with a *madhuperca*, or preſent of honey, curds, and fruit.

120. ‘ A king or a *Bráhmen*, arriving at the celebration of the ſacra-
‘ ment, are to be honoured with a *madhuperca*; but not, if the ſacra-
‘ ment be over: this is a ſettled rule.

121. ‘ In the evening, let the wife make an offering of the dreſſed
‘ food, but without pronouncing any text of the *Véda:* one oblation to
‘ the aſſembled gods, thence named *Vaiſwadéva*, is ordained both for
‘ evening and morning.

122. ‘ From month to month, on the dark day of the moon, let a
‘ twice-born man having finiſhed the daily ſacrament of the *Pitrĭs*,
‘ and his fire being ſtill blazing, perform the ſolemn *ſráddha*, called
‘ *pindánwáhárya:*

123. ‘ Sages have diſtinguiſhed the monthly *ſráddha* by the title of
‘ *anwáhárya*, or *after eaten*, that is, eaten after the *pinda*, or ball of
‘ rice; and it muſt be performed with extreme care, and with fleſh
‘ meat in the beſt condition.

124. ‘ What *Bráhmens* muſt be entertained at that ceremony, and
‘ who muſt be accepted, how many are to be fed, and with what ſort
‘ of food, on all thoſe articles without omiſſion, I will fully diſcourſe.

125. ‘ At the *ſráddha* of the gods he may entertain two *Bráhmens*;
‘ at that of his father, paternal grandfather, and paternal great grand-
‘ father, three; or one only at that of the gods, and one at that for his
‘ three paternal anceſtors: though he abound in wealth, let him not
‘ be ſolicitous to entertain a large company.

126. ‘ A large company deſtroys theſe five advantages; reverence to
‘ prieſts, propriety of time and place, purity, and the acquiſition of
‘ virtuous

'virtuous *Bráhmens:* let him not, therefore, endeavour to feed a 'superfluous number.

127. 'This act of due honour to departed souls, on the dark day of 'the moon, is famed by the appellation of *pitrya,* or ancestral: the 'legal ceremony, in honour of departed spirits, rewards with continual 'fruit a man engaged in such obsequies.

128. 'Oblations to the gods and to ancestors should be given to a 'most reverend *Bráhmen,* perfectly conversant with the *Véda;* since 'what is given to him produces the greatest reward.

129. 'By entertaining one learned man at the oblation to the gods 'and at that to ancestors, he gains more exalted fruit, than by feeding 'a multitude, who know not the holy texts.

130. 'Let him inquire into the ancestry, even in a remote degree, 'of a *Bráhmen,* who has advanced to the end of the *Véda:* such a 'man, if sprung from good men, is a fit partaker of oblations to gods 'and to ancestors; such a man may justly be called an *atit'hi,* or guest.

131. 'Surely, though a million of men, unlearned in holy texts, 'were to receive food, yet a single man, learned in scripture, and 'fully satisfied with his entertainment, would be of more value than 'all of them together.

132. 'Food, consecrated to the gods and the manes, must be pre-'sented to a theologian of eminent learning; for certainly, when hands 'are smeared with blood, they cannot be cleaned with blood only, *nor* '*can sin be removed by the company of sinners.*

133. ‘ As many mouthfuls as an unlearned man ſhall ſwallow at an ‘ oblation to the gods and to anceſtors, ſo many redhot iron balls muſt ‘ the giver of the *ſráddha* ſwallow in the next world.

134. ‘ Some *Bráhmens* are intent on ſcriptural knowledge; others, ‘ on auſtere devotion; ſome are intent both on religious auſterity and ‘ on the ſtudy of the *Véda*; others, on the performance of ſacred rites:

135. ‘ Oblations to the manes of anceſtors ought to be placed with ‘ care before ſuch as are intent on ſacred learning: but offerings to the ‘ gods may be preſented, with due ceremonies, to *Bráhmens* of all ‘ the four deſcriptions.

136. ‘ There may be a *Bráhmen*, whoſe father had not ſtudied the ‘ ſcripture, though the ſon has advanced to the end of the *Véda*; or ‘ there may be one, whoſe ſon has not read the *Véda*, though the ‘ father had travelled to the end of it:

137. ‘ Of thoſe two let mankind conſider him as the ſuperiour, ‘ whoſe father had ſtudied the ſcripture; yet, for the ſake of performing ‘ rites with holy texts, the other is worthy of honour.

138. ‘ Let no man, at the preſcribed obſequies, give food to an ‘ intimate friend; ſince advantage to a friend muſt be procured by ‘ gifts of different property: to that *Bráhmen* let the performer of a ‘ *ſráddha* give food, whom he conſiders neither as a friend nor as a foe.

139. ‘ For him, whoſe obſequies and offerings of clarified butter are ‘ provided chiefly through friendſhip, no fruit is reſerved in the next ‘ life, on account either of his obſequies or of his offerings.

140. ‘ The

140. 'The man, who, through delusion of intellect, forms temporal 'connexions by obsequies, is excluded from heavenly mansions, as a 'giver of the *sráddha* for the sake of friendship, and the meanest of 'twice-born men:

141. 'Such a convivial present, by men of the three highest classes, 'is called the gift of *Pisáchas*, and remains fixed here below, like 'a blind cow in one stall.

142. 'As a husbandman, having sown seed in a barren soil, reaps 'no grain, thus a performer of holy rites, having given clarified 'butter to an unlearned *Bráhmen*, attains no reward in heaven;

143. 'But a present made, as the law ordains, to a learned theolo-'gian, renders both the giver and the receiver partakers of good fruits 'in this world and in the next.

144. 'If no learned *Bráhmen* be at hand, he may at his pleasure 'invite a friend to the *sráddha*, but not a foe, be he ever so learned; 'since the oblation, being eaten by a foe, loses all fruit in the life 'to come.

145. 'With great care let him give food at the *sráddha* to a priest, 'who has gone through the scripture, but has chiefly studied the '*Rĭgvéda*; to one, who has read all the branches, but principally those 'of the *Yajush*; or to one, who has finished the whole, with particular 'attention to the *Sáman*:

146. 'Of that man, whose oblation has been eaten, after due ho-'nours, by any one of those three *Bráhmens*, the ancestors are con-'stantly satisfied as high as the seventh person, *or to the sixth degree*.

147. 'This

147. ‘ This is the chief rule in offering the *ſráddha* to the gods and ‘ to anceſtors; but the following may be conſidered as a ſubſidiary ‘ rule, *where no ſuch learned prieſts can be found,* and is ever obſerved ‘ by good men:

148. ‘ Let him entertain his maternal grandfather, his maternal ‘ uncle, the ſon of his ſiſter, the father of his wife, his ſpiritual guide, ‘ the ſon of his daughter, or her huſband, his maternal couſin, his ‘ officiating prieſt, or the performer of his ſacrifice.

149. ‘ For an oblation to the gods, let not the man, who knows what ‘ is law, ſcrupulouſly inquire into the parentage of a *Bráhmen*; but ‘ for a prepared oblation to anceſtors, let him examine it with ſtrict care.

150. ‘ Thoſe *Bráhmens,* who have committed any inferiour theft or ‘ any of the higher crimes, who are deprived of virility, or who profeſs ‘ a diſbelief in a future ſtate, Menu has pronounced unworthy of ‘ honour at a *ſráddha* to the gods or to anceſtors.

151. ‘ To a ſtudent in theology, who has not read the *Véda,* to a ‘ man *puniſhed for paſt crimes by being* born without a prepuce, to a ‘ gameſter, and to ſuch, as perform many ſacrifices for other men, let ‘ him never give food at the ſacred obſequies.

152. ‘ Phyſicians, imageworſhippers for gain, ſellers of meat, and ‘ ſuch as live by low traffick, muſt be ſhunned in oblations both to the ‘ deities and to progenitors.

153. ‘ A public ſervant of the whole town, or of the prince, a man ‘ with whitlows on his nails, or with black yellow teeth, an oppoſer of ‘ his preceptor, a deſerter of the ſacred fire, and an uſurer,

154. ‘ A

154. 'A phthiſical man, a feeder of cattle, one omitting the five 'great ſacraments, a contemner of *Bráhmens*, a younger brother married before the elder, an elder brother not married before the younger, 'and a man, who ſubſiſts by the wealth of many relations,

155. 'A dancer, one who has violated the rule of chaſtity in the 'firſt or fourth order, the huſband of a *Súdra*, the ſon of a twice-'married woman, a man who has loſt one eye, and a huſband in 'whoſe houſe an adulterer dwells,

156. 'One who teaches the *Véda* for wages, and one who gives 'wages to ſuch a teacher, the pupil of a *Súdra*, and the *Súdra* preceptor, a rude ſpeaker, and the ſon of an adultereſs, born either 'before or after the death of the huſband,

157. 'A forſaker, without juſt cauſe, of his mother, father, or preceptor, and a man who forms a connexion, either by ſcriptural or 'connubial affinity, with great ſinners,

158. 'A houſeburner, a giver of poiſon, an eater of food offered 'by the ſon of an adultereſs, a ſeller of the moonplant, *a ſpecies of* '*mountain rue*, a navigator of the ocean, a poetical encomiaſt, an oil-'man, and a ſuborner of perjury,

159. 'A wrangler with his father, an employer of gameſters for his 'own benefit, a drinker of intoxicating ſpirits, a man puniſhed for 'ſin with elephantiaſis, one of evil repute, a cheat, and a ſeller of 'liquids,

160. 'A maker of bows and arrows, the huſband of a younger ſiſter 'married before the elder *of the whole blood*, an injurer of his friend, the

'the keeper of a gaminghouſe, and a father inſtructed in the *Véda* by
'his own ſon,

161. 'An epileptick perſon, one who has the eryſipelas or the 'leproſy, a common informer, a lunatick, a blind man, and a deſpiſer 'of ſcripture, muſt all be ſhunned.

162. 'A tamer of elephants, bulls, horſes, or camels, a man who 'ſubſiſts by aſtrology, a keeper of birds, and one who teaches the uſe 'of arms,

163. 'He, who diverts watercourſes, and he, who is gratified by 'obſtructing them, he, who builds houſes for gain, a meſſenger, and a 'planter of trees *for pay*,

164. 'A breeder of ſporting dogs, a falconer, a ſeducer of damſels, a 'man delighting in miſchief, a *Bráhmen* living as a *Súdra*, a ſacrificer 'to the inferiour gods only,

165. 'He, who obſerves not approved cuſtoms, and he, who regards 'not preſcribed duties, a conſtant importunate aſker of favours, he, 'who ſupports himſelf by tillage, a clubfooted man, and one deſpiſed 'by the virtuous,

166. 'A ſhepherd, a keeper of buffalos, the huſband of a twice-'married woman, and the remover of dead bodies *for pay*, are to be 'avoided with great care.

167. 'Thoſe loweſt of *Bráhmens*, whoſe manners are contemptible, 'who are not admiſſible into company at a repaſt, an exalted and 'learned prieſt muſt avoid at both *ſráddhas*.

168. 'A

168. 'A *Bráhmen*, unlearned in holy writ, is extinguiſhed in an 'inſtant, like a fire of dry graſs: to him the oblation muſt not be 'given; for the clarified butter muſt not be poured on aſhes.

169. 'WHAT retribution is prepared in the next life for the giver 'of food to men inadmiſſible into company, at the *ſráddha* to the gods 'and to anceſtors, I will now declare without omiſſion.

170. 'On that food, which has been given to *Bráhmens*, who have 'violated the rules of their order, to the younger brother married before 'the elder, and to the reſt, who are not admiſſible into company, the '*Racſhaſes* eagerly feaſt.

171. 'He, who makes a marriage contract with the connubial fire, 'while his elder brother continues unmarried, is called a *perivéttrĭ*; and 'the elder brother, a *perivitti:*

172. 'The *perivéttrĭ*, the *perivitti*, the damſel thus wedded, the 'giver of her in wedlock, and, fifthly, the performer of the nuptial 'ſacrifice, all ſink to a region of torment.

173. 'He, who laſciviouſly dallies with the widow of his deceaſed 'brother, though ſhe be legally married to him, is denominated the 'huſband of a *didhiſhú*.

174. 'Two ſons, named a *cunda* and a *gólaca*, are born in adultery; 'the *cunda*, while the huſband is alive, and the *gólaca*, when the huſ-'band is dead:

175. 'Thoſe animals begotten by adulterers, deſtroy, both in this 'world and in the next, the food preſented to them by ſuch, as make 'oblations to the gods or to the manes.

176. 'The

176. 'The foolish giver of a *śráddha* loses, in a future life, the fruit 'of as many admissible guests, as a *thief or the like* person, inadmissible 'into company, might be able to see.

177. 'A blind man, placed where one with eyes might have seen, 'destroys the reward of ninety; he, who has lost one eye, of sixty; 'a leper, of a hundred; one punished with elephantiasis, of a thou-'sand.

178. 'Of the gift at a *śráddha* to as many *Bráhmens*, as a sacrificer 'for a *Súdra* might be able to touch on the body, the fruit is lost to the 'giver, *if he invite such a wretch*;

179. 'And if a *Bráhmen*, who knows the *Véda*, receive through covet-'ousness a present from such a sacrificer, he speedily sinks to perdition, 'like a figure of unburnt clay in water.

180. 'Food, given to a seller of the moonplant, becomes ordure in 'another world; to a physician, purulent blood; *and the giver will be 'a reptile bred in them:* if offered to an imageworshipper, it is thrown 'away; if to an usurer, infamous.

181. 'That, which is given to a trader, endures neither in this life 'nor in the next, and that bestowed on a *Bráhmen*, who has married 'a widow, resembles clarified butter poured on ashes as an oblation to 'fire.

182. 'That food, which is given to other base inadmissible men 'before mentioned, the wise have pronounced to be no more than ani-'mal oil, blood, flesh, skin, and bones.

183. 'Now

183. 'Now learn comprehensively, by what *Bráhmens* a company 'may be purified, when it has been defiled by inadmissible persons; '*Bráhmens*, the chief of their class, the purifiers of every assembly.

184. 'Those priests must be considered as the purifiers of a company, 'who are most learned in all the *Védas* and all their *Angas*, together 'with their descendants, who have read the whole scripture:

185. 'A priest learned in a principal part of the *Yajurvéda*; one, 'who keeps the five fires constantly burning; one skilled in a principal 'part of the *Rigvéda*; one, who explains the six *Védángas*; the son of a '*Bráhmì*, or woman married by the *Bráhma* ceremony; and one, who 'chants the principal *Sáman*;

186. 'One, who propounds the sense of the *Védas*, which he learnt 'from his preceptor, a student, who has given a thousand *cows for* '*pious uses*, and a *Bráhmen* a hundred years old, must all be considered 'as the purifiers of a party at a *sráddha*.

187. 'On the day before the sacred obsequies, or on the very day 'when they are prepared, let the performer of them invite, with due 'honour, such *Bráhmens* as have been mentioned; *usually* one superiour, 'who has three inferiour to him.

188. 'The *Bráhmen*, who has been invited to a *sráddha* for departed 'ancestors, must be continually abstemious; he must not even read 'the *Védas*; and he, who performs the ceremony, must act in the same 'manner.

189. 'Departed ancestors, no doubt, are attendant on such invited '*Bráhmens*; hovering around them like pure spirits, and sitting by 'them, when they are seated.

190. ‘ The prieſt, who having been duly invited to a *ſráddha*, breaks ‘ the appointment, commits a grievous offence, and, in his next birth, ‘ becomes a hog.

191. ‘ He, who careſſes a *Súdra* woman, after he has been invited ‘ to ſacred obſequies, takes on himſelf all the ſin, that has been com-‘ mitted by the giver of the repaſt.

192. ‘ The *Pitrĭs*, or *great progenitors*, are free from wrath, intent ‘ on purity, ever exempt from ſenſual paſſions, endued with exalted ‘ qualities: they are primeval divinities, who have laid arms aſide.

193. ‘ HEAR now completely, from whom they ſprang; who ‘ they are; by whom, and by what ceremonies, they are to be ho-‘ noured.

194. ‘ The ſons of MARI'CHI and of all the other *Rĭſhis*, who were ‘ the offspring of MENU, ſon of BRAHMA', are called the companies ‘ of *Pitrĭs*, or *forefathers*.

195. ‘ The *Sómaſads*, who ſprang from VIRA'J, are declared to be ‘ the anceſtors of the *Sádhyas*; and the *Agniſhwáttas*, who are famed ‘ among created beings as the children of MARI'CHI, to be the proge-‘ nitors of the *Dévas*.

196. ‘ Of the *Daityas*, the *Dánavas*, the *Yacſhas*, the *Gandharvas*, ‘ the *Uragas*, or *Serpents*, the *Racſhaſes*, the *Garudas*, and the *Cinna-*‘ *ras*, the anceſtors are *Barhiſhads* deſcended from ATRI;

197. ‘ Of *Bráhmens*, thoſe named *Sómapas*; of *Cſhatriyas*, the ‘ *Haviſhmats*; of *Vaiſyas*, thoſe called *A'jyapas*; of *Súdras*, the ‘ *Sucálins*:

198. ‘ The

198. 'The *Sómapas* deſcended from *Me*, BHRĬGU; the *Haviſhmats*, 'from ANGIRAS; the *A'jyapas*, from PULASTYA; the *Sucálins*, from 'VASISHT'HA.

199. 'Thoſe who are, and thoſe who are not, conſumable by fire, 'called *Agnidagdhas*, and *Anagnidagdhas*, the *Cávyas*, the *Barhiſhads*, 'the *Agniſhwáttas*, and the *Saumyas*, let mankind conſider as the chief 'progenitors of *Bráhmens*.

200. 'Of thoſe juſt enumerated, who are generally reputed the prin-'cipal tribes of *Pitrĭs*, the ſons and grandſons indefinitely, are alſo in 'this world conſidered as great progenitors.

201. 'From the *Rĭſhis* come the *Pitrĭs*, or patriarchs; from the '*Pitrĭs*, both *Dévas* and *Dánavas*; from the *Dévas*, this whole world 'of animals and vegetables, in due order.

202. 'Mere water, offered with faith to the progenitors of men, in 'veſſels of ſilver, or adorned with ſilver, proves the ſource of incorruption.

203. 'An oblation by *Bráhmens* to their anceſtors tranſcends an ob-'lation to the deities; becauſe that to the deities is conſidered as the 'opening and completion of that to anceſtors.

204. 'As a preſervative of the oblation to the patriarchs, let the 'houſe-keeper begin with an offering to the gods; for the *Racſhaſes* 'rend in pieces an oblation which has no ſuch preſervative.

205. 'Let an offering to the gods be made at the beginning and end 'of the *ſráddha*: it muſt not begin and end with an offering to anceſ-'tors; for he, who begins and ends it with an oblation to the *Pitrĭs*, 'quickly periſhes with his progeny.

206. 'LET

206. 'LET the *Bráhmen* ſmear with cowdung a purified and ſequeſ-
'tered piece of ground; and let him with great care ſelect a place
'with a declivity toward the ſouth:

207. 'The divine manes are always pleaſed with an oblation in
'empty glades, naturally clean, on the banks of rivers, and in ſolitary
'ſpots.

208. 'Having duly made an ablution with water, let him place the
'invited *Bráhmens*, who have alſo performed their ablutions, one by
'one, on allotted ſeats purified with *cus'a*-graſs.

209. 'When he has placed them with reverence on their ſeats, let
'him honour them (having firſt honoured the gods) with fragrant
'garlands and ſweet odours.

210. 'Having brought water for them with *cus'a*-graſs and *tila*, let
'the *Bráhmen*, with the *Bráhmens*, pour the oblation, as the law directs,
'on the holy fire.

211. 'Firſt, as it is ordained, having ſatisfied AGNI, SO'MA, YAMA,
'with clarified butter, let him proceed to ſatisfy the manes of his
'progenitors.

212. 'If he have no conſecrated fire, *as if he be yet unmarried, or his*
'*wife be juſt deceaſed*, let him drop the oblation into the hand of a
'*Bráhmen*; ſince, what fire is, even ſuch is a *Bráhmen*; as prieſts, who
'know the *Véda* declare:

213. 'Holy ſages call the chief of the twice-born the gods of
'obſequies, free from wrath, with placid aſpects, of a primeval race,
'employed in the advancement of human creatures.

214. 'Having

214. ' Having walked in order from eaſt to ſouth, and thrown into ' the fire all the ingredients of his oblation, let him ſprinkle water on ' the ground with his right hand.

215. ' From the remainder of the clarified butter having formed ' three balls of rice, let him offer them, with fixed attention, in the ' ſame manner as the water, his face being turned to the ſouth :

216. ' Then, having offered thoſe balls, after due ceremonies and ' with an attentive mind, *to the manes of his father, his paternal grand-* ' *father, and great grandfather*, let him wipe the ſame hand with the ' roots of *cuśa*, which he had before uſed, for the ſake of *his paternal* ' *anceſtors in the fourth, fifth, and ſixth degrees, who are* the partakers ' of the rice and clarified butter *thus* wiped off.

217. ' Having made an ablution, returning toward the north, and ' thrice ſuppreſſing his breath ſlowly, let him ſalute the gods of the ' ſix ſeaſons, and the *Pitrĭs* alſo, being well acquainted with proper ' texts of the *Véda*.

218. ' Whatever water remains in his ewer, let him carry back ' deliberately near the cakes of rice ; and, with fixed attention, let him ' ſmell thoſe cakes, in order as they were offered :

219. ' Then, taking a ſmall portion of the cakes in order, let him ' firſt, as the law directs, cauſe the *Bráhmens* to eat of them, while ' they are ſeated.

220. ' If his father be alive, let him offer the *ſráddha* to his ' anceſtors in *three* higher degrees ; or let him cauſe his own father to ' eat, as a *Bráhmen*, at the obſequies :

221. ' Should

221. ‘ Should his father be dead, and his grandfather living, let ‘ him, in celebrating the name of his father, *that is, in performing* ‘ *obſequies to him,* celebrate alſo his paternal great grandfather ;

222. ‘ Either the paternal grandfather may partake of the *ſráddha* ‘ (ſo has MENU declared) or the grandſon, authorized by him, may ‘ perform the ceremony at his diſcretion.

223. ‘ Having poured water, with *cus'a*-graſs and *tila,* into the ‘ hands of the *Bráhmens,* let him give them the upper part of the ‘ cakes, ſaying, “ *Swadhá* to the manes !”

224. ‘ Next, having himſelf brought with both hands a veſſel full ‘ of rice, let him, ſtill meditating on the *Pitrĭs*, place it before the ‘ *Bráhmens* without precipitation.

225. ‘ Rice taken up, but not ſupported with both hands, the male- ‘ volent *Aſuras* quickly rend in pieces.

226. ‘ Broths, potherbs, and other eatables accompanying the rice, ‘ together with milk and curds, clarified butter and honey, let him ‘ firſt place on the ground, after he has made an ablution ; and let his ‘ mind be intent on no other object :

227. ‘ Let him add ſpiced puddings, and milky meſſes of various ‘ ſorts, roots of herbs and ripe fruits, ſavoury meats, and ſweet ſmelling ‘ drinks.

228. ‘ Then being duly purified, and with perfect preſence of mind, ‘ let him take up all the diſhes one by one, and preſent them in order ‘ to the *Bráhmens*, proclaiming their qualities.

229. ‘ Let

229. 'Let him at no time drop a tear; let him on no account be 'angry; let him ſay nothing falſe; let him not touch the eatables 'with his foot; let him not even ſhake the diſhes:

230. 'A tear ſends the meſſes to reſtleſs ghoſts; anger, to foes; 'falſehood, to dogs; contact with his foot, to demons; agitation, 'to ſinners.

231. 'Whatever is agreeable to the *Bráhmens*, let him give without 'envy; and let him diſcourſe on the attributes of GOD: ſuch diſ-'courſe is expected by the manes.

232. 'At the obſequies to anceſtors, he muſt let the *Bráhmens* hear 'paſſages from the *Véda*, from the codes of law, from moral tales, 'from heroick poems, from the *Puránas*, and from theological 'texts.

233. 'Himſelf being delighted, let him give delight to the *Bráhmens*, 'and invite them to eat of the proviſions by little and little; attracting 'them often with the dreſſed rice and other eatables, and mentioning 'their good properties.

234. 'To the ſon of his daughter, though a ſtudent in theology, let 'him carefully give food at the *ſráddha*; offering him a blanket from '*Népàl* as his ſeat, and ſprinkling the ground with *tila*:

235. 'Three things are held pure at ſuch obſequies, the daughter's 'ſon, the *Népàl* blanket, and the *tila*; and three things are praiſed in 'it by the wiſe, cleanlineſs, freedom from wrath, and want of pre-'cipitate haſte.

236. 'Let

236. 'Let all the dreſſed food be very hot; and let the *Bráhmens* 'eat it in ſilence; nor let them declare the qualities of the food, even 'though aſked by the giver.

237. 'As long as the meſſes continue warm, as long as they eat in 'ſilence, as long as the qualities of the food are not declared by them, 'ſo long the manes feaſt on it.

238. 'What a *Bráhmen* eats with his head covered, what he eats 'with his face to the ſouth, what he eats with ſandals on his feet, the 'demons aſſuredly devour.

239. 'Let not a *Chandála*, a townboar, a cock, a dog, a woman 'in her courſes, or an eunuch, ſee the *Bráhmens* eating:

240. 'That, which any one of them ſees at the oblation to fire, 'at a ſolemn donation of cows and gold, at a repaſt given to *Bráhmens*, 'at holy rites to the gods, and at the obſequies to anceſtors, produces 'not the intended fruit:

241. 'The boar deſtroys it by his ſmell; the cock, by the air of his 'wings; the dog, by the caſt of a look; the man of the loweſt claſs, 'by the touch.

242. 'If a lame man, or a man with one eye, or a man with a 'limb defective or redundant, be even a ſervant of the giver, him 'alſo let his maſter remove from the place.

243. 'Should another *Bráhmen*, or a mendicant, come to his houſe 'for food, let him, having obtained permiſſion from the invited '*Bráhmens*, entertain the ſtranger to the beſt of his power.

244. 'Having

244. ‘ Having brought together all the ſorts of food, as dreſſed rice ‘ and the like, and ſprinkling them with water, let him place them ‘ before the *Bráhmens*, who have eaten; dropping ſome *on the blades of* ‘ cus′a-*graſs, which have been ſpread* on the ground.

245. ‘ What remains in the diſhes, and what has been dropped on ‘ the blades of *cus′a*, muſt be conſidered as the portion of deceaſed ‘ *Bráhmens*, not girt with the ſacrificial thread, and of ſuch as have ‘ deſerted unreaſonably the women of their own tribe.

246. ‘ The reſidue, that has fallen on the ground at the *ſráddha* to ‘ the manes, the wiſe have decided to be the ſhare of all the ſervants, ‘ who are not crooked in their ways, nor lazy and ill diſpoſed.

247. ‘ Before the obſequies to anceſtors as far as the ſixth degree, ‘ they muſt be performed to a *Bráhmen* recently deceaſed; but the ‘ performer of them muſt *in that caſe* give the *ſráddha* without the ‘ ceremony to the Gods, and offer only one round cake; *and theſe* ‘ *obſequies for a ſingle anceſtor ſhould be annually performed on the day* ‘ *of his death:*

248. ‘ When, *afterwards*, the obſequies to anceſtors as far as the ‘ ſixth degree, incluſively of him, are performed according to law, then ‘ muſt the offering of cakes be made by the deſcendants in the manner ‘ before ordained *for the monthly ceremonies*.

249. ‘ THAT fool, who, having eaten of the *ſráddha*, gives the ‘ reſidue of it to a man of the ſervile claſs, falls headlong down to the ‘ hell, named *Cálaſútra*.

250. ' Should the eater of a *sráddha* enter, on the same day, the bed ' of a seducing woman, his ancestors would sleep for that month on her ' excrement.

251. ' Having, by the word *swaditam*, asked the *Bráhmens* if they ' have eaten well, let him give them, being satisfied, water for an ' ablution, and courteously say to them: " Rest either at home or " here."

252. ' Then let the *Bráhmens* address him, saying *swadhá*; for, in ' all ceremonies relating to deceased ancestors, the word *swadhá* is the ' highest benison.

253. ' After that, let him inform those, who have eaten, of the food ' which remains; and, being instructed by the *Bráhmens*, let him dispose ' of it, as they may direct.

254. ' At the close of the *sráddha* to his ancestors, he must ask, if the ' *Bráhmens* are satisfied, by the word *swadita*; after that for his family, ' by the word *susruta*; after that for his own advancement, by the ' word *sampanna*; after that, which has been offered to the gods, by the ' word *ruchita*.

255. ' The afternoon, the *cus'a*-grass, the cleansing of the ground, ' the *tilas*, the liberal gifts of food, the due preparation for the repast, ' and the company of most exalted *Bráhmens*, are true riches in the ' obsequies to ancestors.

256. ' The blades of *cus'a*, the holy texts, the forenoon, all the ' oblations, *which will presently be enumerated*, and the purification ' before

'before mentioned, are to be conſidered as wealth in the *ſráddha* to the 'gods:

257. 'Such wild grains as are eaten by hermits, milk, the juice of 'the moonplant, meat untainted, and ſalt unprepared by art, are 'held things fit, in their own nature, for the laſt mentioned offering.

258. 'Having diſmiſſed the invited *Bráhmens*, keeping his mind 'attentive, and his ſpeech ſuppreſſed, let him, after an ablution, look 'toward the ſouth, and aſk theſe bleſſings of the *Pitrĭs*:

259. "May generous givers abound in our houſe! may the ſcriptures "be ſtudied, and progeny increaſe, in it! may faith never depart from "us! and may we have much to beſtow on the needy!"

260. 'Thus having ended the *ſráddha*, let him cauſe a cow, a 'prieſt, a kid, or the fire, to devour what remains of the cakes; or 'let him caſt them into the waters.

261. 'Some make the offering of the round cakes after the repaſt of 'the *Bráhmens*; ſome cauſe the birds to eat what remains, or caſt it 'into water or fire.

262. 'Let a lawful wife, ever dutiful to her lord, and conſtantly 'honouring his anceſtors, eat the middlemoſt of the three cakes, *or* '*that offered to his paternal grandfather*, with due ceremonies, praying 'for offspring:

263. 'So may ſhe bring forth a ſon, who will be longlived, famed, 'and ſtrongminded, wealthy, having numerous deſcendants, endued with 'the beſt of qualities, and performing all duties religious and civil.

264. 'THEN,

264. 'THEN, having waſhed both his hands and ſipped water, let 'him prepare ſome rice for his paternal kinſmen; and, having given it 'them with due reverence, let him prepare food alſo for his maternal 'relations.

265. 'Let the reſidue continue in its place, until the *Bráhmens* have 'been diſmiſſed; and then let him perform the *remaining* domeſtick 'ſacraments.

266. 'WHAT ſort of oblations, given duly to the manes, are capable 'of ſatisfying them for a long time or for eternity, I will now declare 'without omiſſion.

267. 'The anceſtors of men are ſatisfied a whole month with *tila*, 'rice, barley, black lentils or vetches, water, roots, and fruit, given 'with preſcribed ceremonies;

268. 'Two months, with fiſh; three months, with veniſon; four, 'with mutton; five, with the fleſh of *ſuch* birds, *as* the twice-born 'may eat;

269. 'Six months, with the fleſh of kids; ſeven, with that of 'ſpotted deer; eight, with that of the deer, or antelope, called *éna*; 'nine, with that of the *ruru*:

270. 'Ten months are they ſatisfied with the fleſh of wild boars and 'wild buffalos; eleven, with that of rabbits or hares, and of tortoiſes;

271. 'A whole year with the milk of cows, and food made of that 'milk; from the fleſh of the long-eared white goat, their ſatisfaction 'endures twelve years.

272. 'The

272. 'The potherb *cálaſáca*, the fiſh *mahâſalca*, or the *diodon*, the 'fleſh of a rhinoceros, or of an ironcoloured kid, honey, and all ſuch 'foreſtgrains as are eaten by hermits, are formed for their ſatisfaction 'without end.

273. 'Whatever pure food, mixed with honey, a man offers on the 'thirteenth day of the moon, in the ſeaſon of rain, and under the lunar 'aſteriſm *Maghà*, has likewiſe a ceaſeleſs duration.

274. "Oh! may that man, *ſay the manes*, be born in our line, who "may give us milky food, with honey and pure butter, both on the "thirteenth of the moon, and when the ſhadow of an elephant falls "to the eaſt!"

275. 'Whatever a man, endued with ſtrong faith, piouſly offers, 'as the law has directed, becomes a perpetual unperiſhable gratifica'tion to his anceſtors in the other world:

276. 'The tenth and ſo forth, except the fourteenth, in the dark 'half of the month, are the lunar days moſt approved for ſacred 'obſequies: as they *are*, ſo *are* not the others.

277. 'He, who does honour to the manes, on even lunar days, and 'under even lunar ſtations, enjoys all his deſires; on odd lunar days, 'and under odd lunar aſteriſms, he procures an illuſtrious race.

278. 'As the latter, *or dark*, half of the month ſurpaſſes, for the 'celebration of obſequies, the former, *or bright* half, ſo the latter half 'of the day ſurpaſſes, *for the ſame purpoſe*, the former half of it.

279. 'The

279. 'The oblation to anceſtors muſt be duly made, even to *the* '*concluſion of it with the diſtribution to* the ſervants (or even to the 'cloſe of life), in the form preſcribed, by a *Bráhmen* wearing his 'thread on his right ſhoulder, proceeding from left to right, without 'remiſſneſs, and with *cus'a*-graſs in his hand.

280. 'Obſequies muſt not be performed by night; ſince the night is 'called *rácſhasì* or *infeſted by demons*; nor while the ſun is riſing or 'ſetting, nor when it has juſt riſen.

281. 'A houſe-keeper, *unable to give a monthly repaſt*, may perform 'obſequies here below, according to the ſacred ordinance, only thrice 'a year, in the ſeaſons of *hémanta*, *griſhma*, and *verſhà*; but the five 'ſacraments he muſt perform daily.

282. 'The ſacrificial oblation, at obſequies to anceſtors, is ordained 'to be made in no vulgar fire; nor ſhould the monthly *ſráddha* of 'that *Bráhmen*, who keeps a perpetual fire, be made on any day 'except on that of the conjunction.

283. 'When a twice-born man, having performed his ablu'tion, offers a ſatisfaction to the manes with water only, *being* '*unable to give a repaſt*, he gains by that offering all the fruit 'of a *ſráddha*.

284. 'The wiſe call our fathers, *Vaſus*; our paternal grandfathers, '*Rudras*; our paternal great grandfathers, *A'dityas* (that is, *all are to* '*be revered as deities)*; and to this effect there is a primeval text in 'the *Véda*.

285. 'Let

285. 'Let a man, who is able, continually feed on *vighaſa*, and 'continually feed on *amrĭta:* by *vighaſa* is meant the reſidue of a 'repaſt at obſequies; and by *amrĭta*, the reſidue of a ſacrifice to 'the gods.

286. 'THIS complete ſyſtem of rules, for the five ſacraments and the 'like, has been declared to you: now hear the law for thoſe means of 'ſubſiſtence, which the chief of the twice-born may ſeek.

CHAPTER THE FOURTH.

On Economicks; and Private Morals.

1. ' LET a *Bráhmen*, having dwelt with a preceptor during the ' first quarter of a man's life, pass the second quarter of human life in ' his own house, when he has contracted a legal marriage.

2. ' He must live, with no injury, or with the least possible injury, ' to animated beings, by pursuing those means of gaining subsistence, ' which are strictly prescribed by law, except in times of distress:

3. ' For the sole purpose of supporting life, let him acquire pro- ' perty by those irreproachable occupations, which are peculiar to his ' class, and unattended with bodily pain.

4. ' He may live by *rĭta* and *amrĭta*, or, *if necessary*, by *mrĭta*, or ' *pramrĭta*, or even by *satyánrĭta*; but never let him subsist by ' *swavrĭtti*:

5. ' By *rĭta*, must be understood lawful gleaning and gathering; by ' *amrĭta*, what is given unasked; by *mrĭta*, what is asked as alms; ' tillage is called *pramrĭta*;

6. ‘ Traffick and moneylending are *ſatyánrĭta*; even by them, ‘ *when he is deeply diſtreſſed*, may he ſupport life; but ſervice for hire is ‘ named *ſwavrĭtti*, or *dog-living*, and of courſe he muſt by all means ‘ avoid it.

7. ‘ He may either ſtore up grain for three years; or garner up ‘ enough for one year; or collect what may laſt three days; or make ‘ no proviſion for the morrow.

8. ‘ Of the four *Bráhmens* keeping houſe, *who follow thoſe four* ‘ *different modes*, a preference is given to the laſt in order ſucceſſively; ‘ as to him, who moſt completely by virtue has vanquiſhed the world:

9. ‘ One of them ſubſiſts by all the ſix means of livelihood; another ‘ by three of them; a third, by two only; and a fourth lives barely on ‘ continually teaching the *Véda*.

10. ‘ He, who ſuſtains himſelf by picking up grains and ears, muſt ‘ attach himſelf to ſome altar of conſecrated fire, but conſtantly per- ‘ form thoſe rites only, which end with the dark and bright fortnights ‘ and with the ſolſtices.

11. ‘ Let him never, for the ſake of a ſubſiſtence, have recourſe to ‘ popular converſation; let him live by the conduct of a prieſt, neither ‘ crooked, nor artful, nor blended *with the manners of the mercantile* ‘ *claſs*.

12. ‘ Let him, if he ſeek happineſs, be firm in perfect content, and ‘ check all deſire of acquiring more *than he poſſeſſes*; for happineſs has ‘ its root in content, and diſcontent is the root of miſery.

13. ‘ A

13. 'A *Bráhmen* keeping houſe, *and* ſupporting himſelf by any of 'the *legal* means before mentioned, muſt diſcharge theſe *following* 'duties, which conduce to fame, length of life, and beatitude.

14. 'Let him daily without ſloth perform his peculiar duty, which 'the *Véda* preſcribes; for he, who performs that *duty*, as well as he is 'able, attains the higheſt path to ſupreme bliſs.

15. 'He muſt not gain wealth *by muſick or dancing, or* by any art 'that pleaſes the ſenſe; nor by any prohibited art; nor, whether he be 'rich or poor, *muſt he receive gifts* indiſcriminately.

16. 'Let him not, from a ſelfiſh appetite, be ſtrongly addicted 'to any ſenſual gratification; let him, by improving his intellect, 'ſtudiouſly preclude an exceſſive attachment to ſuch pleaſures, *even* '*though lawful.*

17. 'All kinds of wealth, that may impede his reading the *Véda*, 'let him wholly abandon, perſiſting by all means in the ſtudy of 'ſcripture; for that will be found his moſt beneficial attainment.

18. 'Let him paſs through this life, bringing his apparel, his diſ-'courſe, and his frame of mind, to a conformity with his age, his 'occupations, his property, his divine knowledge, and his family.

19. 'Each day let him examine thoſe holy books, which ſoon give 'increaſe of wiſdom; and thoſe, which teach the means of acquiring 'wealth; thoſe, which are ſalutary to life; and thoſe *nigamas*, which 'are explanatory of the *Véda*;

20. 'Since,

20. ‘ Since, as far as a man ſtudies completely the ſyſtem of ſacred ‘ literature, ſo far only can he become eminently learned, and ſo far ‘ may his learning ſhine brightly.

21. ‘The ſacramental oblations to ſages, to the gods, to ſpirits, to men, ‘ and to his anceſtors, let him conſtantly perform to the beſt of his power.

22. ‘ Some, who well know the ordinances for thoſe oblations, per- ‘ form not always externally the five great ſacraments, but continually ‘ make offerings in their own organs *of ſenſation and intellect:*

23. ‘ Some conſtantly ſacrifice their breath in their ſpeech, *when* ‘ *they inſtruct others, or praiſe* GOD *aloud,* and their ſpeech in their ‘ breath, *when they meditate in ſilence;* perceiving in their ſpeech and ‘ breath *thus employed* the unperiſhable fruit of a ſacrificial offering:

24. ‘ Other *Bráhmens* inceſſantly perform thoſe ſacrifices with ſcrip- ‘ tural knowledge only; ſeeing with the eye of divine learning, that ‘ ſcriptural knowledge is the root of every ceremonial obſervance.

25. ‘ Let a *Bráhmen* perpetually make oblations to conſecrated fire, ‘ at the beginning and end of day and night, and at the cloſe of each ‘ fortnight, *or at the conjunction and oppoſition:*

26. ‘ At the ſeaſon, when old grain is uſually conſumed, let him ‘ offer new grain for a plentiful harveſt; and at the cloſe of the ſeaſon, ‘ let him perform the rites called *adhvara*; at the ſolſtices let him ‘ ſacrifice cattle; at the end of the year, let his oblations be made with ‘ the juice of the moonplant:

27. ‘ Not

27. 'Not having offered grain for the harveſt, nor cattle *at the time* '*of the ſolſtice*, let no *Bráhmen*, who keeps hallowed fire, and wiſhes 'for long life, taſte rice or fleſh;

28. 'Since the holy fires, not being honoured with new grain and 'with a ſacrifice of cattle, are greedy for rice and fleſh, and ſeek to 'devour his vital ſpirits.

29. 'Let him take care, to the utmoſt of his power, that no gueſt 'ſojourn in his houſe unhonoured with a ſeat, with food, with a bed, 'with water, with eſculent roots, and with fruit:

30. 'But, let him not honour with his converſation ſuch as do 'forbidden acts; ſuch as ſubſiſt, like cats, *by intereſted craft*; ſuch, as 'believe not the ſcripture; ſuch as oppugn it by ſophiſms; or ſuch as 'live like rapacious waterbirds.

31. 'With oblations to the gods and to anceſtors, let him do re-'verence to *Bráhmens* of the ſecond order, who are learned in theology, 'who have returned home from their preceptors, after having per-'formed their religious duties and fully ſtudied the *Véda*; but men of 'an oppoſite deſcription let him avoid.

32. 'Gifts muſt be made by each houſe-keeper, as far as he has 'ability, to religious mendicants, though heterodox; and a juſt portion 'muſt be reſerved, without inconvenience to his family, for all ſentient 'beings, *animal and vegetable*.

33. 'A prieſt, who is maſter of a family, and pines with hunger, 'may ſeek wealth from a king *of the military claſs*, from a ſacrificer,

'or

' or his own pupil, but from no perſon elſe, *unleſs all other helps fail:* ' thus *will he ſhew his* reſpect for the law.

34. ' Let no prieſt, who keeps houſe, *and is* able *to procure food*, ever ' waſte himſelf with hunger; nor, when he has any ſubſtance, let him ' wear old or ſordid clothes.

35. ' His hair, nails, and beard, being clipped; *his paſſions* ſubdued; ' his mantle, white; his body, pure; let him diligently occupy himſelf ' in reading the *Véda*, and be conſtantly intent on ſuch acts, as may be ' ſalutary to him.

36. ' Let him carry a ſtaff of *Vénu*, an ewer with water in it, a ' handful of *cus'a*-graſs, or *a copy of* the *Véda*; with a pair of bright ' golden rings in his ears.

37. ' He muſt not gaze on the ſun, whether riſing or ſetting, or ' eclipſed, or reflected in water, or advanced to the middle of the ſky.

38. ' Over a ſtring, to which a calf is tied, let him not ſtep; nor ' let him run, while it rains; nor let him look on his own image in ' water: this is a ſettled rule.

39. ' By a mound of earth, by a cow, by an idol, by a *Bráhmen*, by ' a pot of clarified butter, or of honey, by a place where four ways ' meet, and by large trees well known in the diſtrict, let him paſs with ' his right hand toward them.

40. ' Let him not, though mad with deſire, approach his wife, when ' her courſes appear; nor let him then ſleep with her in the ſame bed;

41. ' Since

41. 'Since the knowledge, the manhood, the ſtrength, the eye-
'ſight, even the vital ſpirit, of him, who approaches his wife thus
'defiled, utterly periſh;

42. 'But the knowledge, the manhood, the ſtrength, the ſight, and
'the life of him, who avoids her in that ſtate of defilement, are
'greatly increaſed.

43. 'Let him neither eat with his wife, nor look at her eating, or
'ſneezing, or yawning, or ſitting careleſsly at her eaſe;

44. 'Nor let a *Bráhmen,* who deſires manly ſtrength, behold her
'ſetting off her eyes with black powder, or ſcenting herſelf with eſ-
'ſences, or baring her boſom, or bringing forth a child.

45. 'Let him not eat his food, wearing only a ſingle cloth; nor let
'him bathe quite naked; nor let him eject urine or feces in the high-
'way, nor on aſhes, nor where kine are grazing,

46. 'Nor on tilled ground, nor in water, nor on wood raiſed for
'burning, nor, *unleſs he be in great need,* on a mountain, nor on the
'ruins of a temple, nor at any time on a neſt of white ants,

47. 'Nor in ditches with living creatures in them, nor walking,
'nor ſtanding, nor on the bank of a river, nor on the ſummit of
'a mountain:

48. 'Nor let him ever eject them, looking at *things moved by* the
'wind, or at fire, or at a prieſt, or at the ſun, or at water, or at
'cattle;

49. 'But

49. ' But let him void his excrements, having covered the earth
' with wood, potherbs, *dry* leaves and graſs, or the like, carefully
' ſuppreſſing his utterance, wrapping up his breaſt and his head:

50. ' By day let him void them with his face to the north; by
' night, with his face to the ſouth; at ſunriſe and ſunſet, in the ſame
' manner as by day;

51. ' In the ſhade or in darkneſs, whether by day or by night, let a
' *Bráhmen* eaſe nature with his face turned as he pleaſes; and in places
' where he fears injury to life *from wild beaſts or from reptiles.*

52. ' Of him, who ſhould urine againſt fire, againſt the ſun or the
' moon, againſt a twice-born man, a cow, or the wind, all the ſacred
' knowledge would periſh.

53. ' Let him not blow the fire with his mouth; let him not ſee his
' wife naked; let him not throw any foul thing into fire; nor let
' him warm his feet in it;

54. ' Nor let him place it *in a chafing diſh* under *his bed*; nor let him
' ſtride over it; nor let him keep it, *while he ſleeps*, at his feet: let
' him do nothing, that may be injurious to life.

55. ' At the time of ſunriſe or ſunſet, let him not eat, nor travel,
' nor lie down to reſt; let him not idly draw lines on the ground; nor
' let him take off his own chaplet of flowers.

56. ' Let him not caſt into water either urine or ordure, nor ſaliva,
' nor cloth, or any other thing, ſoiled with impurity, nor blood, nor
' any kinds of poiſon.

57. ' Let

57. ‘ Let him not ſleep alone in an empty houſe; nor let him wake ‘ a ſleeping man *ſuperiour to himſelf in wealth and in learning* ; nor let ‘ him ſpeak to a woman at the time of her courſes ; nor let him go to ‘ *perform* a ſacrifice, unattended *by an officiating prieſt*.

58. ‘ In a temple *of conſecrated fire*, in the paſture of kine, in the ‘ preſence of *Bráhmens*, in reading the *Véda*, and in eating his food, ‘ let him hold out his right arm uncovered.

59. ‘ Let him not interrupt a cow *while ſhe is* drinking, nor give ‘ notice to any, *whoſe milk or water ſhe drinks* ; nor let him, who knows ‘ *right from wrong*, and ſees in the ſky the bow of INDRA, ſhow it to ‘ any man.

60. ‘ Let him not inhabit a town, in which civil and religious duties ‘ are neglected ; nor, for a long time, one in which diſeaſes are fre- ‘ quent: let him not begin a journey alone: let him not reſide long on ‘ a mountain.

61. ‘ Let him not dwell in a city governed by a *Súdra* king, nor ‘ in one ſurrounded with men unobſervant of their duties, nor in one ‘ abounding with profeſſed hereticks, nor in one ſwarming with low- ‘ born outcaſts.

62. ‘ Let him eat no vegetable, from which the oil has been ex- ‘ tracted ; nor indulge his appetite to ſatiety ; nor eat either too early ‘ or too late ; nor *take any food* in the evening, if he have eaten to ‘ fulneſs in the morning.

63. ‘ Let him make no vain corporeal exertion: let him not ſip ‘ water *taken up* with his *cloſed* fingers: let him eat nothing *placed* in ‘ his lap: let him never take pleaſure in aſking idle queſtions.

64. 'Let him neither dance nor ſing, nor play on muſical inſtru-
'ments, *except in religious rites*; nor let him ſtrike his arm, or gnaſh
'his teeth, or make a braying noiſe, though agitated by paſſion.

65. 'Let him not waſh his feet in a pan of mixed yellow metal;
'nor let him eat from a broken diſh, nor where his mind is diſturbed
'with anxious apprehenſions.

66. 'Let him not uſe either ſlippers or clothes, or a ſacerdotal
'ſtring, or an ornament, or a garland, or a waterpot, which before
'have been uſed by another.

67. 'With untrained beaſts of burden let him not travel; nor with
'ſuch, as are oppreſſed by hunger or by diſeaſe; nor with ſuch as have
'imperfect horns, eyes, or hoofs; nor with ſuch as have ragged tails:

68. 'But let him conſtantly travel with beaſts well trained, whoſe
'pace is quick, who bear all the marks of a good breed, who have an
'agreeable colour, and a beautiful form; giving them very little pain
'with his whip.

69. 'The ſun in the ſign of *Canyà*, the ſmoke of a burning corſe,
'and a broken ſeat, muſt be ſhunned: he muſt never cut his own
'hair and nails, nor ever tear his nails with his teeth.

70. 'Let him not break mould or clay *without cauſe*: let him not
'cut graſs with his nails; let him neither indulge any vain fancy,
'nor do any act, that can bring no future advantage:

71. 'He, who *thus idly* breaks clay, or cuts graſs, or bites his nails,
'will ſpeedily ſink to ruin; and *ſo ſhall* a detractor, and an unclean
'perſon.

72. 'Let

72. 'Let him uſe no contumelious phraſe: let him wear no garland
'except on his hair: to ride on the back of a bull or cow, is in all
'modes culpable.

73. 'Let him not paſs, otherwiſe than by the gate, into a walled
'town, or an incloſed houſe; and by night let him keep aloof from the
'roots of trees.

74. 'Never let him play with dice: let him not put off his ſandals
'with his hand: let him not eat, while he reclines on a bed, nor what
'is placed in his hand, or on a bench;

75. 'Nor, when the ſun is ſet, let him eat any thing mixed with
'*tila*; nor let him ever in this world ſleep quite naked; nor let him
'go any whither with a remnant of food in his mouth.

76. 'Let him take his food, having ſprinkled his feet with water;
'but never let him ſleep with his feet wet: he, who takes his food
'with his feet ſo ſprinkled, will attain long life.

77. 'Let him never advance into a place undiſtinguiſhable by his
'eye, or not eaſily paſſable: never let him look at urine or ordure;
'nor let him paſs a river *ſwimming* with his arms.

78. 'Let not a man, who deſires to enjoy long life, ſtand upon hair,
'nor upon aſhes, bones, or potſherds, nor upon ſeeds of cotton, nor
'upon huſks of grain.

79. 'Nor let him tarry *even under the ſhade of the ſame tree* with
'outcaſts for great crimes, nor with *Chandálas*, nor with *Puccaſas*, nor
'with

'with idiots, nor with men proud of wealth, nor with *washermen* '*and other* vile persons, nor with *Antyavasáyins*.

80. 'Let him not give *even temporal* advice to a *Súdra*; nor, *except* '*to his own servant*, what remains from his table; nor clarified butter, 'of which part has been offered *to the gods*; nor let him *in person* give 'spiritual counsel to such a man, nor *personally* inform him of the 'legal expiation for his sin:

81. 'Surely he, who declares the law to a servile man, and he, 'who instructs him in the mode of expiating sin, *except by the in-* '*tervention of a priest*, sinks with that very man into the hell named '*Asamvrĭta*.

82. 'Let him not stroke his head with both hands; nor let him 'even touch it, while food remains in his mouth; nor without *bathing* '*it*, let him bathe his body.

83. 'Let him not *in anger* lay hold of hair, or smite any one on the 'head; nor let him, after his head has been rubbed with oil, touch '*with oil* any of his limbs.

84. 'From a king, not born in the military class, let him accept 'no gift, nor from such as keep a slaughterhouse or an oilpress, or put 'out a vintner's flag, or subsist by the gain of prostitutes:

85. 'One oilpress is as bad as ten slaughterhouses; one vintner's 'flag, as ten oilpresses; one prostitute, as ten vintner's flags; one '*such* king, as ten prostitutes;

86. 'With

86. 'With a ſlaughterer, *therefore*, who employs ten thouſand 'ſlaughterhouſes, a king, *not a ſoldier by birth*, is declared to be on a 'level; *and* a gift from him is tremendous.

87. 'He, who receives a preſent from an avaricious king and a 'tranſgreſſor of the ſacred ordinances, goes in ſucceſſion to the fol-'lowing twenty-one hells:

88. '*Támiſra*, *Andhatámiſra*, *Maháraurava*, *Raurava*, *Naraca*, *Cála-'sútra*, and *Mahánaraca*;

89. '*Sanjivana*, *Mahávíchi*, *Tapana*, *Sampratápana*, *Sanháta*, *Sacácóla*, '*Cudmala*, *Pútimrĭttica*;

90. '*Lóhaſancu*, or *ironſpiked*, and *Rijíſha*, *Pant'hána*, the river '*Sálmalì*, *Aſipatravana*, or *the ſwordleaved foreſt*, and *Lóh'ángáraca*, 'or *the pit of redhot charcoal*.

91. '*Bráhmens*, who know this *law*, who ſpeak the words of the '*Véda*, and who ſeek bliſs after death, accept no gifts from a king.

92. 'Let the houſekeeper wake in the time ſacred to Bra'hmi', '*the goddeſs of ſpeech, that is, in the laſt watch of the night*: let him 'then reflect on virtue and virtuous emoluments, on the bodily labour, 'which they require, and on the whole meaning and very eſſence 'of the *Véda*.

93. 'Having riſen, having done what nature makes neceſſary, 'having then purified himſelf and fixed his attention, let him ſtand a 'long time repeating the *gáyatrì* for the firſt *or morning* twilight; as 'he muſt, for the laſt *or evening* twilight in its proper time.

94. 'By

94. 'By continued repetition of the *gáyatrì* at the twilights, the 'holy ſages acquire length of days, perfect knowledge, reputation during 'life, fame after death, and celeſtial glory.

95. 'Having duly performed the *upácarma*, or *domeſtick ceremony* '*with ſacred fire*, at the full moon of *Srávana* or of *Bhádra*, let 'the *Bráhmen*, fully exerting his intellectual powers, read the *Védas* 'during four months and one fortnight:

96. 'Under the lunar aſteriſm *Puſhya*, or on the firſt day of the 'bright half of *Mágha*, and in the firſt part of the day, let him per- 'form, out of the town, *the ceremony called* the *utſerga* of the *Védas*.

97. 'Having performed that ceremony out of town, as the law 'directs, let him deſiſt from reading for one *intermediate* night winged '*with two days*, or for that day and *that following* night only;

98. 'But after that *intermiſſion*, let him attentively read the *Védas* 'in the bright fortnights; and in the dark fortnights let him conſtantly 'read all the *Védángas*.

99. 'He muſt never read the *Véda* without accents and letters well 'pronounced; nor ever in the preſence of *Súdras*; nor, *having begun* '*to read it* in the laſt watch of the night, muſt he, though fatigued, 'ſleep again.

100. 'By the rule juſt mentioned let him continually, with his 'faculties exerted, read the *Mantras*, or holy texts, compoſed in re- 'gular meaſures; and, when he is under no reſtraint, let him read 'both the *Mantras* and the *Bráhmanas*, or chapters on the attributes of 'God.

101. 'Let

101. ‘ LET a reader of the *Véda,* and a teacher of it to his pupils, ‘ in the form preſcribed, always avoid reading on the following pro- ‘ hibited days.

102. ‘ By night, when the wind meets his ear, and by day when ‘ the duſt is collected, *he muſt not read* in the ſeaſon of rain ; ſince both ‘ thoſe times are declared unfit for reading, by ſuch as know when the ‘ *Véda* ought to be read.

103. ‘ In lightning, thunder, *and* rain, or during the fall of large ‘ fireballs on all ſides, at ſuch times MENU has ordained the reading ‘ of ſcripture to be deferred till the ſame time next day.

104. ‘ When the prieſt perceives thoſe accidents occurring at once, ‘ while his fires are kindled for *morning and evening* ſacrifices, then let ‘ him know, that the *Véda* muſt not be read ; and when clouds are ‘ ſeen gathered out of ſeaſon.

105. ‘ On the occaſion of a preternatural ſound from the ſky, of an ‘ earthquake, or an obſcuration of the heavenly bodies, even in due ‘ ſeaſon, let him know, that his reading muſt be poſtponed till the ‘ proper time :

106. ‘ But if, while his fires are blazing, the ſound of lightning and ‘ thunder is heard *without rain,* his reading muſt be diſcontinued, ‘ only while the phenomenon laſts ; the remaining event, *or rain alſo,* ‘ happening, it muſt ceaſe for a night and a day.

107. ‘ The reading of ſuch, as wiſh to attain the excellent reward ‘ of virtue, muſt continually be ſuſpended in towns and in cities, and ‘ always where an offenſive ſmell prevails.

108. ‘ In

108. 'In a diſtrict, through which a corpſe is carried, and in the
'preſence of an unjuſt perſon, the reading of ſcripture muſt ceaſe;
'*and* while the ſound of weeping is heard; and in a promiſcuous
'aſſembly of men.

109. 'In water, near midnight, and while the two natural excre-
'tions are made, or with a remnant of food in the mouth, or when
'the *ſráddha* has recently been eaten, let no man even meditate in his
'heart *on the holy texts*.

110. 'A learned *Bráhmen*, having received an invitation to the
'obſequies of a ſingle anceſtor, muſt not read the *Véda* for three
'days; nor when the king has a ſon born; nor when the dragon's
'head cauſes an eclipſe.

111. 'As long as the ſcent and unctuoſity of perfumes remain on
'the body of a learned prieſt, who has partaken of an entertainment,
'ſo long he muſt abſtain from pronouncing the texts of the *Véda*.

112. 'Let him not read lolling on a couch, nor with his feet raiſed
'on a bench, nor with his thighs croſſed, nor having lately ſwallowed
'meat, or the rice and other food *given* on the birth or death of a
'relation;

113. 'Nor in a cloud of duſt, nor while arrows whiz, *or a lute*
'*ſounds*, nor in either of the twilights, nor at the conjunction, nor on
'the fourteenth day, nor at the oppoſition, nor on the eighth day, of
'the moon:

114. 'The dark lunar day deſtroys the ſpiritual teacher; the four-
'teenth deſtroys the learner; the eighth and the day of the full moon
'deſtroy

'destroy *all remembrance of* scripture; for which reasons he must avoid 'reading on those lunar days.

115. 'Let no *Bráhmen* read, while dust falls like a shower, nor while 'the quarters of the firmament are inflamed, nor while shakals yell, nor 'while dogs bark or yelp, nor while asses or camels bray, nor while 'men in company chatter.

116. 'He must not read near a cemetery, near a town, or in a pas-'ture for kine; nor in a mantle worn before at a time of dalliance; 'nor having just received the present usual at obsequies:

117. 'Be it an animal, or a thing inanimate, or whatever be the gift 'at a *sráddha*, let him not, having lately accepted it, read the *Véda*; 'for such a *Bráhmen* is said to have his mouth in his hand.

118. 'When the town is beset by robbers, or an alarm has been 'raised by fire, and in all terrors from strange phenomena, let him 'know, that his lecture must be suspended till the due time *after the* '*cause of terror has ceased.*

119. 'The suspension of reading scripture, after a performance of 'the *upácarma* and *utserga*, must be for three whole nights, *by the* '*man who seeks virtue more than knowledge*; also for one day and night, 'on the eighth lunar days which follow those ceremonies, and on the 'nights at the close of the seasons.

120. 'Never let him read on horseback, nor on a tree, nor on an 'elephant, nor in a boat, nor on an ass, nor on a camel, nor standing 'on barren ground, nor borne in a carriage;

121. ‘ Nor during a verbal altercation, nor during a mutual aſſault, ‘ nor with an army, nor in battle, nor after food, *while his hand is moiſt* ‘ *from waſhing*, nor with an indigeſtion, nor after vomiting, nor with ‘ ſour eructations;

122. ‘ Nor without notice to a gueſt juſt arrived, nor while the ‘ wind vehemently blows, nor when blood guſhes from his body, nor ‘ when it is wounded by a weapon.

123. ‘ While the ſtrain of the *Sáman* meets his ear, he ſhall not read ‘ the *Rĭch*, or the *Yajuſh*; nor any part of the *Véda*, when he has juſt ‘ concluded the whole; nor *any other part*, when he has juſt finiſhed ‘ the book entitled *A'ranyaca:*

124. ‘ The *Rigvéda* is held ſacred to the gods; the *Yajurvéda* relates ‘ to mankind; the *Sámavéda* concerns the manes of anceſtors, and the ‘ ſound of it, *when chanted*, raiſes therefore a notion of ſomething im- ‘ pure.

125. ‘ Knowing this *collection of rules*, let the learned read the *Véda* ‘ on every *lawful* day, having firſt repeated in order the pure eſſence ‘ of the three *Védas*, namely, the *pranava*, the *vyáhrĭtis*, and the *gáyatrì*.

126. ‘ If a beaſt uſed in agriculture, a frog, a cat, a dog, a ſnake, an ‘ ichneumon, or a rat, paſs between *the lecturer and his pupil*, let him ‘ know, that the lecture muſt be intermitted for a day and a night.

127. ‘ Two occaſions, when the *Véda* muſt not be read, let a *Bráh-* ‘ *men* conſtantly obſerve with great care; *namely*, when the place for ‘ reading it is impure, and when he is himſelf unpurified.

128. ‘ On

128. ‘ On the dark night of the moon, and on the eighth, on the ‘ night of the full moon, and on the fourteenth, let a *Bráhmen*, who ‘ keeps houſe, be continually chaſte as a ſtudent in theology, even in ‘ the ſeaſon of nuptial embraces.

129. ‘ Let him not bathe, having juſt eaten; nor while he is afflicted ‘ with diſeaſe; nor in the middle of the night; nor with many clothes; ‘ nor in a pool of water imperfectly known.

130. ‘ Let him not intentionally paſs over the ſhadow of ſacred ‘ images, of a natural or ſpiritual father, of a king, of a *Bráhmen*, who ‘ keeps houſe, or of any reverend perſonage; nor of a redhaired *or* ‘ *coppercoloured* man; nor of one, who has juſt performed a ſacrifice.

131. ‘ At noon or at midnight, or having eaten fleſh at a *ſráddha*, ‘ or in either of the twilights, let him not long tarry, where four ways ‘ meet.

132. ‘ He muſt not ſtand knowingly near oil and other things, with ‘ which a man has rubbed his body, or water, in which he has waſhed ‘ himſelf, or feces and urine, or blood, or mucus, or any thing chewed ‘ and ſpitten out, or any thing vomited.

133. ‘ Let him ſhow no particular attention to his enemy, or his ‘ enemy's friend, to an unjuſt perſon, to a thief, or to the wife of ‘ another man;

134. ‘ Since nothing is known in this world ſo obſtructive to ‘ length of days, as the culpable attention of a man to the wife ‘ of another.

135. ‘ Never

135. ‘ Never let him, who desires an increase of wealth, despise a
‘ a warrior, a serpent, or a priest versed in scripture, how mean so-
‘ ever *they may appear* ;

136. ‘ Since those three, when contemned, may destroy a man ; let
‘ a wise man therefore always beware of treating those three with
‘ contempt :

137. ‘ Nor should he despise *even* himself on account of previous
‘ miscarriages : let him pursue fortune till death, nor ever think her
‘ hard to be attained.

138. ‘ Let him say what is true, but let him say what is pleasing ;
‘ let him speak no disagreeable truth, nor let him speak agreeable
‘ falsehood : this is a primeval rule.

139. ‘ Let him say “ well and good,” or let him say “ well” only ;
‘ but let him not maintain fruitless enmity and altercation with any man.

140. ‘ Let him not journey too early in the morning or too late in
‘ the evening, nor too near the midday, nor with an unknown com-
‘ panion, nor alone, nor with men of the servile class.

141. ‘ Let him not insult those, who want a limb, or have a limb
‘ redundant, who are unlearned, who are advanced in age, who have
‘ no beauty, who have no wealth, or who are of an ignoble race.

142. ‘ Let no priest, unwashed after food, touch with his hand a
‘ cow, a *Bráhmen,* or fire ; nor, being in good health *and* unpurified, let
‘ him even look at the luminaries in the firmament :

143. ‘ But,

143. 'But, having accidentally touched them before his purification, 'let him ever ſprinkle, with water in the palm of his hand, his organs 'of ſenſation, all his limbs, and his navel.

144. 'Not being in pain from diſeaſe, let him never without cauſe 'touch the cavities of his body; and carefully let him avoid his con- 'cealed hair.

145. 'Let him be intent on *thoſe propitious obſervances which lead to* 'good fortune, and on the diſcharge of his cuſtomary duties, his body 'and mind being pure, and his members kept in ſubjection; let him 'conſtantly without remiſſneſs repeat the *gáyatrì*, and preſent his ob- 'lation to fire:

146. 'To thoſe, who are intent on good fortune and on the diſcharge 'of their duties, who are always pure, who repeat the holy text and 'make oblations to fire, no calamity happens.

147. 'In due ſeaſon let him ever ſtudy the ſcripture without negli- 'gence; for the ſages call that his principal duty: every other duty is 'declared to be ſubordinate.

148. 'By reading the *Véda* continually, by purity of body and mind, 'by rigorous devotion, and by doing no injury to animated creatures, 'he brings to remembrance his former birth:

149. 'A *Bráhmen*, remembering his former birth, again reads the '*Véda*, and, by reading it conſtantly, attains bliſs without end.

150. 'On the days of the conjunction and oppoſition, let him con- 'ſtantly make thoſe oblations, which are hallowed by the *gáyatrì*, and

'thoſe,

' thoſe, which avert misfortune; but on the eighth and ninth lunar days ' *of the three dark fortnights after the end of Agraháyan,* let him always ' do reverence to the manes of anceſtors.

151. ' Far from the manſion of holy fire, let him remove all ordure; ' far *let him remove* water, in which feet have been waſhed; far *let him* ' *remove* all remnants of food, and all ſeminal impurity.

152. ' At the beginning of each day let him diſcharge his feces, ' bathe, rub his teeth, apply a collyrium to his eyes, adjuſt his dreſs, ' and adore the gods.

153. ' On the dark lunar day, and on the other monthly *parvans*, let ' him viſit the images of deities, and *Bráhmens* eminent in virtue, and ' the ruler of the land, for the ſake of protection, and thoſe whom he ' is bound to revere.

154. ' Let him humbly greet venerable men, *who viſit him*, and give ' them his own ſeat; let him ſit near them, cloſing the palms of his ' hands; and when they depart, let him walk ſome way behind ' them.

155. ' Let him practiſe without intermiſſion that ſyſtem of approved ' uſages, which is the root of all duty religious and civil, ' declared at large in the ſcripture and ſacred lawtracts, together ' with the ceremonies peculiar to each act;

156. ' Since by ſuch practice long life is attained; by ſuch practice ' *is gained* wealth unperiſhable; ſuch practice baffles every mark of ill ' *fortune*:

157. ' But,

157. ' But, by an oppoſite practice, a man ſurely ſinks to contempt ' in this world, has always a large portion of miſery, is afflicted with ' diſeaſe and ſhortlived;

158. ' While the man, who is obſervant of approved uſages, endued ' with faith in ſcripture, and free from a ſpirit of detraction, lives a ' hundred years, even though he bear no bodily mark of a proſperous ' life.

159. ' Whatever act depends on another man, that act let him care- ' fully ſhun; but whatever depends on himſelf, to that let him ſtu- ' diouſly attend:

160. ' ALL, THAT DEPENDS ON ANOTHER, GIVES PAIN; AND ALL, ' THAT DEPENDS ON HIMSELF, GIVES PLEASURE; let him know this ' to be in few words the definition of pleaſure and pain.

161. ' When an act, *neither preſcribed nor prohibited*, gratifies the ' mind of him, who performs it, let him perform it with diligence; but ' let him avoid its oppoſite.

162. ' Him, by whom he was inveſted with the ſacrificial thread, ' him, who explained the *Véda* or even a part of it, his mother, and ' his father, natural or ſpiritual, let him never oppoſe; nor prieſts, nor ' cows, nor perſons truly devout.

163. ' Denial of a future ſtate, neglect of the ſcripture, and con- ' tempt of the deities, envy and hatred, vanity and pride, wrath and ' ſeverity, let him at all times avoid.

164. ' Let

164. ‘ Let him not, when angry, throw a ſtick at another man, ‘ nor ſmite him with any thing; unleſs he be a ſon or a pupil: thoſe ‘ two he may chaſtiſe for their *improvement* in learning.

165. ‘ A twice-born man, who barely aſſaults a *Bráhmen* with in- ‘ tention to hurt him, ſhall be whirled about for a century in the hell ‘ named *Támiſra*;

166. ‘ *But*, having ſmitten him in anger and by deſign, even with ‘ a blade of graſs, he ſhall be born, in one and twenty tranſmigrations, ‘ from the wombs of impure quadrupeds.

167. ‘ He, who, through ignorance of the law, ſheds blood from ‘ the body of a *Bráhmen*, not engaged in battle, ſhall feel exceſſive ‘ pain in his future life:

168. ‘ As many particles of duſt as the blood ſhall roll up from the ‘ ground, for ſo many years ſhall the ſhedder of that blood be mangled ‘ by other animals in his next birth.

169. ‘ Let not him then, who knows *this law*, even aſſault a ‘ *Bráhmen* at any time, nor ſtrike him even with graſs, nor cauſe ‘ blood to guſh from his body.

170. ‘ EVEN here below an unjuſt man attains no felicity; nor he, ‘ whoſe wealth proceeds from giving falſe evidence; nor he, who ‘ conſtantly takes delight in miſchief.

171. ‘ Though oppreſſed by penury, in conſequence of his righte- ‘ ous dealings, let him never give his mind to unrighteouſneſs;

‘ for

'for he may obſerve the ſpeedy overthrow of iniquitous and ſinful
'men.

172. 'Iniquity, committed in this world, produces not fruit immediately, *but*, like the earth, *in due ſeaſon*; and, advancing by little and little, it eradicates the man, who committed it.

173. 'Yes; iniquity, once committed, fails not of producing fruit to him, who wrought it; if not in his own perſon, yet in his ſons; or, if not in his ſons, yet in his grandſons:

174. 'He grows rich for a while through unrighteouſneſs; then he beholds good things; then it is, that he vanquiſhes his foes; but he periſhes at length from his whole root upwards.

175. 'Let a man continually take pleaſure in truth, in juſtice, in laudable practices, and in purity; let him chaſtiſe thoſe, whom he may chaſtiſe, in a legal mode; let him keep in ſubjection his ſpeech, his arm, and his appetite:

176. 'Wealth and pleaſures, repugnant to law, let him ſhun; and even lawful acts, which may cauſe future pain, or be offenſive to mankind.

177. 'Let him not have nimble hands, reſtleſs feet, or voluble eyes; let him not be crooked in his ways; let him not be flippant in his ſpeech, nor intelligent in doing miſchief.

178. 'Let him walk in the path of good men; the path, in which his parents and forefathers walked: while he moves in that path, he can give no offence.

179. 'WITH an attendant on consecrated fire, a performer of holy
'rites, and a teacher of the *Véda,* with his maternal uncle, with his
'guest or a dependant, with a child, with a man either aged or sick,
'with a physician, with his paternal kindred, with his relations by
'marriage, and with cousins on the side of his mother,

180. 'With his mother herself, or with his father, with his kins-
'women, with his brother, with his son, his wife, or his daughter,
'and with his whole set of servants, let him have no strife.

181. 'A house-keeper, who shuns altercation with those *just men-*
'*tioned*, is released from all secret faults; and, by suppressing all such
'disputes, he obtains a victory over the following worlds:

182. 'The teacher of the *Véda* secures him the world of BRAH-
'MA'; his father, the world *of the Sun, or* of the *Prajápetis*; his
'guest, the world of INDRA; his attendance on holy fire, the world
'of *Dévas*;

183. 'His female relations, the world of celestial nymphs; his ma-
'ternal cousins, the world of the *Visvadévas*; his relations by affinity,
'the world of waters; his mother and maternal uncle give him power
'on earth;

184. 'Children, old men, poor dependants, and sick persons, must
'be considered as rulers of the pure ether; his elder brother, as equal
'to his father; his wife and son, as his own body;

185. 'His assemblage of servants, as his own shadow; his daughter,
'as the highest object of tenderness: let him, therefore, when offended
'by any of those, bear the offence without indignation.

186. 'THOUGH

186. 'THOUGH permitted to receive presents, let him avoid a habit 'of taking them; since, by taking many gifts, his divine light soon 'fades.

187. 'Let no man of sense, who has not fully informed himself 'of the law concerning gifts of *particular* things, accept a present, 'even though he pine with hunger.

188. 'The man, who knows not that law, yet accepts gold or gems, 'land, a horse, a cow, food, raiment, oils or clarified butter, be- 'comes mere ashes, like wood consumed by fire:

189. 'Gold and gems burn up his nourishment and life; land and a 'cow, his body; a horse, his eyes; raiment, his skin; clarified butter, 'his manly strength; oils, his progeny.

190. 'A twice-born man, void of true devotion, and not having 'read the *Véda*, yet eager to take a gift, sinks down together with 'it, as with a boat of stone in deep water.

191. 'Let him then, who knows not the law, be fearful of presents 'from this or that giver; since an ignorant man, even by a small 'gift, may become helpless as a cow in a bog:

192. 'Let no man, apprized of this law, present even water to a 'priest, who acts like a cat, not to him, who acts like a bittern, nor 'to him, who is unlearned in the *Véda*;

193. 'Since property, though legally gained, if it be given to either 'of those three, becomes prejudicial in the next world both to the 'giver and receiver:

194. 'As

194. ‘ As he, who tries to paſs over deep water in a boat of ſtone, ‘ ſinks to the bottom, ſo thoſe two ignorant men, the receiver and the ‘ giver, ſink to a region of torment.

195. ‘ A covetous wretch, who continually diſplays the flag of vir- ‘ tue, a pretender, a deluder of the people, is declared to be the man, ‘ who acts like a cat: he is an injurious hypocrite, a detractor from the ‘ merits of all men.

196. ‘ A twice-born man, with his eyes dejected, moroſe, intent on his ‘ own advantage, ſly, and falſely demure, is he, who acts like a bittern.

197. ‘ Such prieſts, as live like bitterns, and ſuch as demean themſelves ‘ like cats, fall by that ſinful conduct into the hell called *Andhatámiſra.*

198. ‘ LET no man, having committed ſin, perform a penance, ‘ under the pretext of auſtere devotion, diſguiſing his crime under fic- ‘ titious religion and deceiving both women and low men:

199. ‘ Such impoſtors, though *Bráhmens*, are deſpiſed, in the next ‘ life and in this, by all who pronounce holy texts; and every reli- ‘ gious act fraudulently performed goes to evil beings.

200. ‘ He, who has no right to diſtinguiſhing marks, yet gains a ‘ ſubſiſtence by wearing falſe marks of diſtinction, takes to himſelf the ‘ ſin committed by thoſe who are entitled to ſuch marks, and ſhall ‘ again be born from the womb of a brute animal.

201. ‘ NEVER let him bathe in the pool of another man; for he, ‘ who bathes in it *without licence*, takes to himſelf a ſmall portion of ‘ the ſins, which the maker of the pool has committed.

202. ‘ He,

202. ‘ He, who appropriates to his own uſe the carriage, the bed, ‘ the ſeat, the well, the garden, or the houſe of another man, who ‘ has not delivered them to him, aſſumes a fourth part of the guilt of ‘ their owner.

203. ‘ In rivers, in ponds dug by holy perſons, and in lakes, let him ‘ always bathe; in rivulets alſo, and in torrents.

204. ‘ A WISE man ſhould conſtantly diſcharge all the moral duties, ‘ though he perform not conſtantly the ceremonies of religion; ſince he ‘ falls low, if, while he performs ceremonial acts only, he diſcharge not ‘ his moral duties.

205. ‘ NEVER let a prieſt eat part of a ſacrifice not begun with texts ‘ of the *Véda*, nor of one performed by a common ſacrificer, by a wo- ‘ man, or by an eunuch:

206. ‘ When thoſe perſons offer the clarified butter, it brings miſ- ‘ fortune to good men, and raiſes averſion in the deities; ſuch *oblations*, ‘ therefore, he muſt carefully ſhun.

207. ‘ Let him never eat the food of the inſane, the wrathful, or the ‘ ſick; nor that, on which lice have fallen; nor that, which has ‘ deſignedly been touched by a foot;

208. ‘ Nor that, which has been looked at by the ſlayer of a prieſt, ‘ *or by any other deadly ſinner*, or has even been touched by a woman ‘ in her courſes, or pecked by a bird, or approached by a dog;

209. ‘ Nor food which has been ſmelled by a cow; nor particu- ‘ larly that, which has been proclaimed *for all comers*; nor the food of

‘ aſſociated

'associated knaves, or of harlots; nor that, which is contemned by 'the learned in scripture;

210. 'Nor that of a thief or a publick singer, of a carpenter, of 'an usurer, of one who has recently come from a sacrifice, of a nig-'gardly churl, or of one bound with fetters;

211. 'Of one publickly defamed, of an eunuch, of an unchaste 'woman, or of a hypocrite; nor any sweet thing turned acid, nor 'what has been kept a whole night; nor the food of a servile man, 'nor the orts of another;

212. 'Nor the food of a physician, or of a hunter, or of a dishonest 'man, or of an eater of orts; nor that of any cruel person; nor of a 'woman in childbed; nor of him, who rises prematurely from table 'to make an ablution; nor of her, whose ten days of purification 'have not elapsed;

213. 'Nor that, which is given without due honour to honourable 'men; nor any flesh, which has not been sacrificed; nor the food 'of a woman, who has neither a husband nor a son; nor that of a 'foe, nor that of the whole town, nor that of an outcast, nor that on 'which any person has sneezed;

214. 'Nor that of a backbiter, or of a false witness; nor of one, 'who sells the reward of his sacrifice; nor of a publick dancer, or a 'tailor; nor of him, who has returned evil for good;

215. 'Nor that of a blacksmith, or a man of the tribe called '*Nishháda*, nor of a stageplayer, nor of a worker in gold or in cane, 'nor of him who sells weapons;

216. 'Nor

216. 'Nor of thoſe, who train hunting dogs, or ſell fermented li-
'quor; nor of him who waſhes clothes, or who dyes them; nor of
'any malevolent perſon; nor of one, who ignorantly ſuffers an adul-
'terer to dwell under his roof;

217. 'Nor of thoſe, who knowingly bear with the paramours of
'their own wives, or are conſtantly in ſubjection to women; nor
'food given for the dead before ten days of purification have paſſed;
'nor any food whatever, but that which ſatisfies him.

218. 'Food given by a king, impairs his manly vigour; by one
'of the ſervile claſs, his divine light; by goldſmiths, his life; by
'leathercutters, his good name:

219. 'Given by *cooks and the like* mean artiſans, it deſtroys his
'offspring; by a waſherman, his muſcular ſtrength; but the food of
'knaviſh aſſociates and harlots excludes him from heaven:

220. 'The food of a phyſician is purulent; that of a libidinous
'woman, ſeminal; that of an uſurer, feculent; that of a weapon-
'ſeller, filthy:

221. 'That of all others, mentioned in order, whoſe food muſt
'never be taſted, is held equal by the wiſe to the ſkin, bones, and
'hair of the dead.

222. 'Having unknowingly ſwallowed the food of any ſuch perſons,
'he muſt faſt during three days; but, having eaten it knowingly, he
'muſt perform the ſame harſh penance, as if he had taſted any
'ſeminal impurity, ordure, or urine.

223. 'Let

223. 'Let no learned prieſt eat the dreſſed grain of a ſervile 'man, who performs no parental obſequies; but, having no other 'means to live, he may take from him raw grain enough for a ſingle 'night.

224. 'The deities, having well conſidered the food of a niggard, 'who has read the ſcripture, and that of an uſurer, who beſtows gifts 'liberally, declared the food of both to be equal in quality;

225. 'But BRAHMA, advancing toward the gods, thus addreſſed 'them: "Make not that equal, which in truth is unequal; ſince the "food of a liberal man is purified by faith, while that of a learned "miſer is defiled by his want of faith in what he has read."

226. 'LET each *wealthy* man continually and ſeduloufly perform 'ſacred rites, and conſecrate pools or gardens with faith; ſince thoſe 'two acts, accompliſhed with faith and with riches honeſtly gained, 'procure an unperiſhable reward.

227. 'If he meet with fit objects of benevolence, let him conſtantly 'beſtow gifts on them, both at ſacrifices and conſecrations, to the beſt 'of his power and with a chearful heart;

228. 'Such a gift, how ſmall ſoever, beſtowed on requeſt without 'grudging, paſſes to a worthy object, who will ſecure the giver from 'all evil.

229. 'A giver of water obtains content; a giver of food, extreme 'bliſs; a giver of *tila*, deſired offspring; a giver of a lamp, un'blemiſhed eyeſight;

230. 'A

230. ‘A giver of land obtains landed property; a giver of gems ‘ or gold, long life; a giver of a houſe, the moſt exalted manſion; a ‘ giver of ſilver, exquiſite beauty;

231. ‘A giver of clothes, the ſame ſtation with CHANDRA; ‘ a giver of a horſe, the ſame ſtation with ASWI; a giver of ‘ a bull, eminent fortune; a giver of a cow, the manſion of ‘ SU'RYA;

232. ‘A giver of a carriage or a bed, an excellent conſort; a giver ‘ of ſafety, ſupreme dominion; a giver of grain, perpetual delight; a ‘ giver of ſcriptural knowledge, union with GOD:

233. ‘Among all thoſe gifts, of water, food, kine, land, clothes, ‘ *tila*, gold, clarified butter, and the reſt, a gift of ſpiritual know- ‘ ledge is conſequently the moſt important;

234. ‘And for whatever purpoſe a man beſtows any gift, for a ‘ ſimilar purpoſe he ſhall receive, with due honour, a ſimilar re- ‘ ward.

235. ‘Both he, who reſpectfully beſtows a preſent, and he who ‘ reſpectfully accepts it, ſhall go to a ſeat of bliſs; but, if they act ‘ otherwiſe, to a region of horror.

236. ‘LET not a man be proud of his rigorous devotion; let ‘ him not, having ſacrificed, utter a falſehood; let him not, though ‘ injured, inſult a prieſt; having made a donation, let him never pro- ‘ claim it:

237. ‘ By falſehood, the ſacrifice becomes vain; by pride, the merit ‘ of devotion is loſt; by inſulting prieſts, life is diminiſhed; and by ‘ proclaiming a largeſs, its fruit is deſtroyed.

238. ‘ Giving no pain to any creature, let him collect virtue by ‘ degrees, for the ſake of acquiring a companion to the next world, as ‘ the white ant by degrees builds his neſt;

239. ‘ For, in his paſſage to the next world, neither his fa- ‘ ther, nor his mother, nor his wife, nor his ſon, nor his kinſ- ‘ men, will remain in his company: his virtue alone will adhere ‘ to him.

240. ‘ Single is each man born; ſingle he dies; ſingle he re- ‘ ceives the reward of his good, and ſingle the puniſhment of his ‘ evil, deeds:

241. ‘ When he leaves his corſe, like a log or a lump of clay, on the ‘ ground, his kindred retire with averted faces; but his virtue ac- ‘ companies his ſoul.

242. ‘ Continually, therefore, by degrees let him collect virtue, for ‘ the ſake of ſecuring an inſeparable companion; ſince with virtue ‘ for his guide, he will traverſe a gloom, how hard to be tra- ‘ verſed!

243. ‘ A man, habitually virtuous, whoſe offences have been expiated ‘ by devotion, is inſtantly conveyed after death to the higher world, ‘ with a radiant form and a body of ethereal ſubſtance.

244. ‘ He,

244. 'He, who ſeeks to preſerve an exalted rank, muſt conſtantly 'form connexions with the higheſt and beſt families, but avoid the 'worſt and the meaneſt;

245. 'Since a prieſt, who connects himſelf with the beſt and higheſt 'of men, avoiding the loweſt and worſt, attains eminence; but ſinks, 'by an oppoſite conduct, to the claſs of the ſervile.

246. 'He, who perſeveres in good actions, in ſubduing his paſſions, 'in beſtowing largeſſes, in gentleneſs of manners, who bears hardſhips 'patiently, who aſſociates not with the malignant, who gives pain to 'no ſentient being, obtains final beatitude.

247. 'Wood, water, roots, fruit, and food placed before him 'without his requeſt, he may accept from all men; honey alſo, and 'protection from danger.

248. 'Gold, or other alms, voluntarily brought and preſented, but 'unaſked and unpromiſed, Brahma' conſidered as receivable even 'from a ſinner:

249. 'Of him, who ſhall diſdain to accept ſuch alms, neither will 'the manes eat the funeral oblations for fifteen years, nor will the 'fire convey the burnt ſacrifice to the gods.

250. 'A bed, houſes, blades of *cus'a*, perfumes, water, flowers, 'jewels, buttermilk, ground rice, fiſh, new milk, fleſh-meat, and 'green vegetables, let him not proudly reject.

251. 'When he wiſhes to relieve his natural parents or ſpiritual 'father, his wife or others, whom he is bound to maintain, or when 'he

'he is preparing to honour deities or guests, he may receive gifts from 'any person, but must not gratify himself with such presents:

252. 'If his parents, however, be dead, or if he live without them 'in his own house, let him, when he seeks nourishment for himself, 'receive presents invariably from good men alone.

253. 'A labourer in tillage, a familyfriend, a herdsman, a slave, 'a barber, a poor stranger offering his humble duty, are men of the 'servile class, who may eat the food of their superiors:

254. 'As the nature of the poor stranger is, as the work is, which 'he desires to perform, and as he may show most respect *to the master* '*of the house*, even thus let him offer his service;

255. 'For he, who describes himself to worthy men in a manner 'contrary to truth, is the most sinful wretch in this world: he is the 'worst of thieves, a stealer of minds.

256. 'All things have their sense ascertained by speech; in speech 'they have their basis; and from speech they proceed: consequently, 'a falsifier of speech falsifies every thing.

257. 'WHEN he has paid, as the law directs, his debts to the sages, 'to the manes, and to the gods, *by reading the scripture, begetting* '*a son, and performing regular sacrifices*, he may resign all to his son *of* '*mature age*, and reside in his family house, with no employment, but 'that of an umpire.

258. 'Alone, in some solitary place, let him constantly meditate on 'the divine nature of the soul, for by such meditation he will attain 'happiness.

259. 'THUS

259. ‘ THUS has been declared the mode, by which a *Bráhmen*,
‘ who keeps houſe, muſt continually ſubſiſt, together with the rule of
‘ devotion ordained for a pupil returned from his preceptor ; a laudable
‘ rule, which increaſes the beſt of *the three* qualities.

260. ‘ A prieſt, who lives always by theſe rules, who knows the
‘ ordinances of the *Véda*, who is freed from the bondage of ſin, ſhall be
‘ abſorbed in the divine eſſence.

CHAPTER THE FIFTH.

On Diet, Purification, and Women.

1. 'THE ſages, having heard thoſe laws delivered for the con-
'duct of houſekeepers, thus addreſſed the highminded BHRĬGU, who
'proceeded *in a former birth* from the genius of fire.

2. 'How, Lord, can death prevail over *Bráhmens,* who know the
'ſcriptural ordinances, and perform their duties, as they have been
'declared?'

3. 'Then he, whoſe diſpoſition was perfect virtue, even BHRĬGU,
'the ſon of MENU, thus anſwered the great *Riſhis:* 'Hear, from
'what ſin proceeds the inclination of death, to deſtroy the chief of
'the twice-born:

4. 'Through a neglect of reading the *Véda,* through a deſertion of
'approved uſages, through ſupine remiſſneſs *in performing holy rites,*
'and through various offences in diet, *the genius of* death becomes
'eager to deſtroy them.

5. 'Garlick, onions, leeks, and muſhrooms (which no twice-born
'man muſt eat), and all vegetables raiſed in dung,

6. 'Red

6. ' Red gums or refins, exuding from trees, and juices from ' wounded ftems, the fruit *félu*, and the thickened milk of a cow ' within ten days after her calving, a prieft muft avoid with great ' care.

7. ' Ricepudding boiled with *tila*, frumenty, ricemilk, and baked ' bread, which have not been firft offered to fome deity, flefhmeat ' alfo, the food of gods, and clarified butter, which have not firft been ' touched, while holy texts were recited,

8. ' Frefh milk from a cow, whofe ten days are not paffed, the milk ' of a camel, or any quadruped with a hoof not cloven, that of an ' ewe, and that of a cow in heat, or whofe calf is dead or abfent ' from her,

9. ' That of any foreft beaft, except the buffalo, the milk of a ' woman, and any thing naturally fweet but acidulated, muft all be ' carefully fhunned :

10. ' But among fuch acids, buttermilk may be fwallowed, and ' every preparation of buttermilk, and all acids extracted from pure ' flowers, roots, or fruit *not cut with iron.*

11. ' Let every twice-born man avoid carnivorous birds, and fuch ' as live in towns, and quadrupeds with uncloven hoofs, except ' thofe allowed by the *Véda*, and the bird called *tittibha* ;

12. ' The fparrow, the water bird *plava*, the phenicopteros, the ' *chacraváca*, the breed of the towncock, the *fárafa*, the *rajjuvála*, ' the woodpecker, and the parrot, male and female ;

13. ' Birds,

13. 'Birds, that ſtrike with their beaks, webfooted birds, the *cóyaſhti*, 'thoſe, who wound with ſtrong talons, and thoſe, who dive to devour 'fiſh: let him avoid meat kept at a ſlaughter houſe, and dried meat,

14. 'The heron, the raven, the *c'hanjana*, all amphibious fiſh-'eaters, tame hogs, and fiſh of every ſort, *but thoſe expreſsly permitted.*

15. 'He, who eats the fleſh of any animal, is called the eater of 'that animal itſelf; and a fiſheater is an eater of all fleſh; from fiſh, 'therefore, he muſt diligently abſtain:

16. 'Yet the two fiſh, called *pát'hína* and *róhita*, may be eaten *by 'the gueſts*, when offered at a repaſt in honour of the gods or the 'manes; and ſo may the *rájíva*, the *ſinhatunda*, and the *ſas'alca* of 'every ſpecies.

17. 'Let him not eat the fleſh of any ſolitary animals, nor of un-'known beaſts or birds, though by general words declared eatable, 'nor of any creature with five claws;

18. 'The hedgehog and porcupine, the lizard *gódhá*, the *gandaca*, 'the tortoiſe, and the rabbit *or hare*, wiſe legiſlators declare lawful 'food among fivetoed animals; and all quadrupeds, camels excepted, 'which have but one row of teeth.

19. 'The twiceborn man, who has intentionally eaten a muſh-'room, the fleſh of a tame hog, or a town cock, a leek, or an onion, 'or garlick, is degraded immediately;

20. 'But having undeſignedly taſted either of thoſe ſix things, 'he muſt perform the penance *ſántapana*, or the *chándráyana*, 'which

'which anchorets, practise: for other things he must fast a whole 'day.

21. 'One of those harsh penances, called *prájápatya*, the twice-'born man must perform annually, to purify him from the unknown 'taint of illicit food; but he must do particular penance for such 'food intentionally eaten.

22. 'BEASTS and birds of excellent sorts may be slain by *Bráhmens* 'for sacrifice, or for the sustenance of those, whom they are bound to 'support; since AGASTYA did this of old.

23. 'No doubt, in the primeval sacrifices by holy men, and in 'oblations by those of the priestly and military tribes, the flesh of such 'beasts and birds, as may be legally eaten, was presented to the deities.

24. 'That, which may be eaten or drunk, *when fresh*, without blame, 'may be swallowed, if touched with oil, though it has been kept a 'whole night; and so may the remains of clarified butter:

25. 'And every mess prepared with barley or wheat, or with dressed 'milk, may be eaten by the twiceborn, although not sprinkled with oil.

26. 'Thus has the food, allowed or forbidden to a twiceborn man, 'been comprehensively mentioned: I will now propound the *special* 'rules for eating and for avoiding flesh meat.

27. 'He should taste meat, which has been hallowed for a sa-'crifice with appropriated texts, and, *once only*, when a priest shall 'desire him, and when he is performing a legal act, or in danger of 'losing life.

28. 'For

28. ‘ For the ſuſtenance of the vital ſpirit, BRAHMA' created all ‘ this *animal and vegetable ſyſtem* ; and all, that is moveable or im- ‘ moveable, that ſpirit devours.

29. ‘ Things fixed are eaten by creatures with locomotion ; toothleſs ‘ animals, by animals with teeth ; thoſe without hands, by thoſe to ‘ whom hands were given ; and the timid, by the bold.

30. ‘ He, who eats *according to law*, commits no ſin, even though ‘ every day he taſte the fleſh of ſuch animals, as may lawfully be ‘ taſted ; ſince both animals, who may be eaten, and thoſe, who eat ‘ them, were equally created by BRAHMA'.

31. ‘ It is delivered as a rule of the gods, that meat muſt be ſwal- ‘ lowed only for the purpoſe of ſacrifice ; but it is a rule of gigantick ‘ demons, that it may be ſwallowed for any other purpoſe.

32. ‘ No ſin is committed by him, who, having honoured the deities ‘ and the manes, eats fleſhmeat, which he has bought, or which he has ‘ himſelf acquired, or which has been given him by another :

33. ‘ Let no twiceborn man, who knows the law, and is not in ‘ urgent diſtreſs, eat fleſh without obſerving this rule ; for he, unable ‘ to ſave himſelf, will be devoured in the next world by thoſe animals, ‘ whoſe fleſh he has thus illegally ſwallowed.

34. ‘ The ſin of him, who kills deer for gain, is not ſo heinous, ‘ with reſpect to *the puniſhment in* another life, as that of him, who ‘ eats fleſhmeat in vain, *or not previouſly offered as a ſacrifice:*

35. ‘ But

35. 'But the man, who, engaged *in holy rites* according to law, 'refuſes to eat it, ſhall ſink in another world, for twenty-one births, 'to the ſtate of a beaſt.

36. 'Never let a prieſt eat the fleſh of cattle unhallowed with '*mantras*, but let him eat it, obſerving the primeval rule, when it 'has been hallowed with thoſe texts of the *Véda*.

37. 'Should he have an earneſt deſire to taſte fleſh meat, he may 'gratify his fancy by forming the image of ſome beaſt with clarified 'butter thickened, or he may form it with dough; but never let 'him indulge a wiſh to kill any beaſt in vain:

38. 'As many hairs as grow on the beaſt, ſo many ſimilar deaths 'ſhall the ſlayer of it, for his own ſatisfaction in this world, endure 'in the next from birth to birth.

39. 'By the ſelfexiſting in perſon were beaſts created for ſacrifice; 'and the ſacrifice *was ordained* for the increaſe of this univerſe: the 'ſlaughterer therefore, of beaſts for ſacrifice is in truth no ſlaugh-'terer.

40. 'Gramineous plants, cattle, timbertrees, amphibious animals, 'and birds, which have been deſtroyed for the purpoſe of ſacrifice, 'attain in the next world exalted births.

41. 'On a ſolemn offering to a gueſt, at a ſacrifice, and in holy 'rites to the manes or to the gods, but on thoſe occaſions only, may 'cattle be ſlain: this law MENU enacted.

42. 'The

42. 'The twiceborn man, who, knowing the meaning and principles 'of the *Véda*, ſlays cattle on the occaſions mentioned, conveys both 'himſelf and thoſe cattle to the ſummit of beatitude.

43. 'Let no twiceborn man, whoſe mind is improved by learning, 'hurt animals without the ſanction of ſcripture, even though in preſſ-'ing diſtreſs, whether he live in his own houſe, or in that of his 'preceptor, or in a foreſt.

44. 'That hurt, which the ſcripture ordains, and which is done in 'this world of moveable and immoveable creatures, he muſt con-'ſider as no hurt at all; ſince law ſhone forth from *the light of* the 'ſcripture.

45. 'He, who injures animals, that are not injurious, from a wiſh 'to give himſelf pleaſure, adds nothing to his own happineſs, living 'or dead;

46. 'While he, who gives no creature willingly the pain of con-'finement or death, but ſeeks the good of all *ſentient beings*, enjoys bliſs 'without end.

47. 'He, who injures no animated creature, ſhall attain without 'hardſhip whatever he thinks of, whatever he ſtrives for, whatever he 'fixes his mind on.

48. 'Fleſhmeat cannot be procured without injury to animals, and 'the ſlaughter of animals obſtructs the path to beatitude; from fleſh-'meat, therefore, let man abſtain:

49. 'Attentively

49. 'Attentively confidering the formation of bodies, and the death 'or confinement of embodied fpirits, let him abftain from eating flefh-'meat of any kind.

50. 'The man, who forfakes not the law, and eats not flefhmeat, 'like a bloodthirfty demon, fhall attain good will in this world, and 'fhall not be afflicted with maladies.

51. 'He, who confents to the death of an animal; he, who kills it; 'he, who diffects it; he, who buys it; he, who fells it; he, who dreffes 'it; he, who ferves it up; and he, who makes it his food; thefe are 'eight principals in the flaughter.

52. 'Not a mortal exifts more finful than he, who, without an 'oblation to the manes or the gods, defires to enlarge his own flefh 'with the flefh of another creature.

53. 'The man, who performs annually, for a hundred years, an '*afwamédha*, or *facrifice of a horfe*, and the man, who abftains from 'flefhmeat, enjoy for their virtue an equal reward.

54. 'By fubfifting on pure fruit and on roots, and by eating fuch 'grains as are eaten by hermits, a man reaps not fo high a reward, 'as by carefully abftaining from animal food.

55. "Me he *(mán fa)* will devour in the next world, whofe "flefh I eat in this life:" *thus fhould a flefheater fpeak, and* thus 'the learned pronounce the true derivation of the word *mánfa*, 'or flefh.

56. 'In

56. 'In lawfully tasting meat, in drinking fermented liquor, in 'caressing women, there is no turpitude; for to such enjoyments men 'are naturally prone: but a virtuous abstinence from them produces 'a signal compensation.

57. 'Now will I promulgate the rules of purification for the dead, 'and the modes of purifying inanimate things, as the law prescribes 'them for the four classes in due order.

58. 'When a child has teethed, and when, after teething, his head 'has been shorn, and when he has been girt with his thread, and when, 'being full grown, he dies, all his kindred are impure: on the birth 'of a child the law is the same.

59. 'By a dead body, the *sapindas* are rendered impure in law for 'ten days, or until *the fourth day, when* the bones have been gathered 'up, or for three days, or for one day only, *according to the qualities* '*of the deceased:*

60. 'Now the relation of the *sapindas*, or men connected by the 'funeral cake, ceases with the seventh person, *or in the sixth degree of* '*ascent or descent*, and that of *samánódacas*, or those connected by an 'equal oblation of water, ends only, when their births and family-'names are no longer known.

61. 'As this impurity, by reason of a dead kinsman, is ordained for '*sapindas*, even thus it is ordained on a childbirth, for those who seek 'absolute purity.

62. 'Uncleanness, on account of the dead, is ordained for all; but 'on the birth of a child, for the mother and father: impurity, for ten

'days

'days after the childbirth, affects the mother only; but the father, having bathed, becomes pure.

63. 'A man, having wasted his manhood, is purified by bathing; 'but, after begetting a child on a *parapúrvá*, he must meditate for 'three days on his impure state.

64. 'In one day and night, added to nights three times three, the '*sapindas* are purified after touching the corpse; but the *samánódacas*, 'in three days.

65. 'A pupil in theology, having performed the ceremony of burning his deceased preceptor, becomes pure in ten nights: he is equal, 'in that case, to the *sapindas*, who carry out the dead.

66. 'In a number of nights, equal to the number of months from 'conception, a woman is purified on a miscarriage; and a women in 'her courses is rendered pure by bathing, when her effusion of blood 'has quite stopped.

67. 'For deceased male children, whose heads have not been shorn, 'purity is legally obtained in one night; but for those, on whom that 'ceremony has been performed, a purification of three nights is required.

68. 'A dead child under the age of two years, let his kinsmen carry 'out having decked him *with flowers, and bury him* in pure ground, 'without collecting his bones *at a future time:*

69. 'Let no ceremony with fire be performed for him, nor that 'of sprinkling water; but his kindred, having left him like a piece of 'wood in the forest, shall be unclean for three days.

70. 'For

70. ‘ For a child under the age of three years, the ceremony with
‘ water ſhall not be performed by his kindred ; but, if his teeth be com-
‘ pletely grown, or a name have been given him, they may perform it,
‘ or not, *at their option.*

71. ‘ A fellow ſtudent in theology being dead, three days of im-
‘ purity are ordained ; and, on the birth of a *ſamánódaca*, purification is
‘ required for three nights.

72. ‘ The relations of *betrothed but* unmarried damſels, are in three
‘ days made pure ; and, in as many, are their paternal kinſmen puri-
‘ fied *after their marriage:*

73. ‘ Let them eat vegetable food without factitious, *that is, only*
‘ *with native*, ſalt ; let them bathe for three days at intervals ; let them
‘ taſte no fleſhmeat ; and let them ſleep apart on the ground.

74. ‘ This rule, which ordains impurity by reaſon of the dead, re-
‘ lates to the caſe of one dying near his kinſmen ; but, in the caſe of
‘ one dying at a diſtance, the following rule muſt be obſerved by
‘ thoſe, who ſhare the ſame cake, and by thoſe, who ſhare only the
‘ ſame water :

75. ‘ The man, who hears that a kinſman is dead in a diſtant
‘ country, becomes unclean, if ten days after the death have not
‘ paſſed, for the remainder of thoſe ten days only ;

76. ‘ But, if the ten days have elapſed, he is impure for three nights,
‘ and, if a year have expired, he is purified merely by touching
‘ water.

77. 'If, after the lapse of ten days, he know the death of a kinsman, 'or the birth of a male child, he must purify himself by bathing together with his clothes.

78. 'Should a child, whose teeth are not grown, or should a *samánódaca*, die in a distant region, the kinsman, having bathed with his 'apparel, becomes immediately pure.

79. 'If, during the ten days, another death or another birth intervene, a *Bráhmen* remains impure, only till those ten days have 'elapsed.

80. 'A spiritual teacher being dead, the sages declare his pupil 'impure for three days; but for a day and a night, if the son or wife 'of the teacher be deceased: such is the sacred ordinance.

81. 'For a reader of the whole *Véda*, who dwells in the same house, 'a man is unclean three nights; but for a maternal uncle, a pupil, an 'officiating priest, and a distant kinsman, only one night winged *with* '*two days*.

82. 'On the death of a military king, in whose dominion he lives, '*his impurity lasts* while the sun or the stars give light; but it *lasts* a 'whole day, on the death of a priest, who has not read the whole '*Véda*, or of a spiritual guide, who has read only part of it, with 'its *Angas*.

83. 'A man of the sacerdotal class becomes pure in ten days; of the 'warlike, in twelve; of the commercial, in five; of the servile, in a 'month.

84. 'Let

84. 'Let no man prolong the days of impurity; let him not in-
'termit the ceremonies to be performed with holy fires: while he
'performs thoſe rites, even though he be a *ſapinda*, he is not impure.

85. 'He, who has touched a *Chandála*, a woman in her courſes, an
'outcaſt for deadly ſin, a newborn child, a corpſe, or one who has
'touched a corpſe, is made pure by bathing.

86. 'If, having ſprinkled his mouth with water, and been long
'intent on his devotion, he ſee an unclean perſon, let him repeat, as
'well as he is able, the ſolar texts of the *Véda*, and thoſe, which con-
'fer purity.

87. 'Should a *Bráhmen* touch a human bone moiſt with oil, he is
'purified by bathing; if it be not oily, by ſtroking a cow, or by look-
'ing at the ſun, having ſprinkled his mouth duly with water.

88. 'A ſtudent in theology ſhall not perform the ceremony of pour-
'ing water at obſequies, until he have completed his courſe of religious
'acts; but if, after the completion of them, he thus make an offering
'of water, he becomes pure in three nights.

89. 'For thoſe, who diſcharge not their preſcribed duties, for thoſe,
'whoſe fathers were of a lower claſs than their mothers, for thoſe,
'who wear a dreſs of religion unauthorized by the *Véda*, and for
'thoſe, who *illegally* kill themſelves, the ceremony of giving funeral
'water is forbidden by law;

90. 'And for women imitating ſuch hereticks, as wear an unlawful
'dreſs, and for ſuch women as live at their own pleaſure, or have
'cauſed

'caused an abortion, or have stricken their husbands, or have drunk 'any spirituous liquor.

91. 'A student violates not the rules of his order, by carrying out, 'when dead, his own instructor in the *Védas*, who invested him with 'his holy cord, or his teacher of particular chapters, or his reverend 'expounder of their meaning, or his father, or his mother.

92. 'Let men carry out a dead *Súdra* by the southern gate of the 'town; but the twiceborn, in due order, by the western, northern, 'and eastern gates.

93. 'No taint of impurity can light on kings or students in theology, '*while employed in discharging their several duties*, nor on those who 'have actually begun a sacrifice; for the first are then placed on the 'seat of INDRA, and the others are always equally pure with the 'celestial spirit.

94. 'To a king, on the throne of magnanimity, the law ascribes 'instant purification, because his throne was raised for the protection 'of his people and the supply of their nourishment:

95. 'It is the same with *the kinsmen of* those, who die in battle, after 'the king has been slain, or have been killed by lightning, or legally 'by the king himself, or in defence of a cow, or of a priest; and with 'all those, whom the king wishes to be pure.

96. 'The corporeal frame of a king is composed of particles from 'SÓMA, AGNI, SU'RYA, PAVANA, INDRA, CUVE'RA, VARUNA, and 'YAMA, the eight guardian deities of the world:

97. 'By

97. ‘By thoſe guardians of men in ſubſtance is the king per-
‘vaded, and he cannot by law be impure; ſince by thoſe tutelar
‘gods are the purity and impurity of mortals both cauſed and re-
‘moved.

98. ‘By a ſoldier, diſcharging the duties of his claſs, and ſlain
‘in the field with brandiſhed weapons, the higheſt ſacrifice is, in
‘that inſtant, complete; and ſo is his purification: this law is
‘fixed.

99. ‘A prieſt, having performed funeral rites, is purified by touching
‘water; a ſoldier, by touching his horſe or elephant, or his arms; a
‘huſbandman, by touching his goad, or the halter of his cattle; a ſer-
‘vant, by touching his ſtaff.

100. ‘This mode of purifying *ſapindas*, O chief of the twiceborn,
‘has been fully declared to you! learn now the purification required
‘on the death of kinſmen leſs intimately connected.

101. ‘*A Bráhmen*, having carried out a dead *Bráhmen*, though not
‘a *ſapinda*, with the affection of a kinſman, or any of thoſe nearly re-
‘lated to him by his mother, becomes pure in three days;

102. ‘But, if he taſte the food offered by their *ſápindas*, he is puri-
‘fied in ten days; and in one day, if he neither partake of their food,
‘nor dwell in the ſame houſe.

103. ‘If he voluntarily follow a corpſe, whether of a paternal kinſ-
‘man or of another, and afterwards bathe with his apparel, he is made
‘pure by touching fire and taſting clarified butter.

104. ‘Let

104. 'Let no kinſman, whilſt any of his own claſs are at hand, 'cauſe a deceaſed *Bráhmen* to be carried out by a *Súdra*; ſince the 'funeral rite, polluted by the touch of a ſervile man, obſtructs his 'paſſage to heaven.

105. 'Sacred learning, auſtere devotion, fire, holy aliment, earth, 'the mind, water, ſmearing with cowdung, air, preſcribed acts of re'ligion, the ſun, and time, are purifiers of imbodied ſpirits;

106. 'But of all pure things, purity in acquiring wealth, is pronounc'ed the moſt excellent: ſince he, who gains wealth with clean hands, 'is truly pure; not he, who is purified merely with earth and water.

107. 'By forgiveneſs of injuries, the learned are purified; by libera'lity, thoſe who have neglected their duty; by pious meditation, thoſe 'who have ſecret faults; by devout auſterity, thoſe who beſt know 'the *Véda*.

108. 'By water and earth is purified what ought to be made pure; 'a river, by its current; a woman, whoſe thoughts have been impure, 'by her monthly diſcharge, and the chief of twiceborn men, by fixing 'his mind wholly on God.

109. 'Bodies are cleanſed by water; the mind is purified by truth; 'the vital ſpirit, by theology and devotion; the underſtanding, by clear 'knowledge.

110. 'Thus have you heard me declare the preciſe rules for pu'rifying animal bodies: hear now the modes of reſtoring purity to 'various inanimate things.

111. 'Of

111. 'Of brilliant metals, of gems, and of every thing made with
'ſtone, the purification, ordained by the wiſe, is with aſhes, water,
'and earth.

112. 'A golden veſſel, not ſmeared, is cleanſed with water only;
'and every thing produced in water, *as coral, ſhells, or pearls*, and every
'ſtony ſubſtance, and a ſilver veſſel not enchaſed.

113. 'From a junction of water and fire aroſe gold and ſilver; and
'they two, therefore, are beſt purified by the elements, whence they
'ſprang,

114. 'Veſſels of copper, iron, braſs, pewter, tin and lead, may be
'fitly cleanſed with aſhes, with acids, or with water.

115. 'The purification ordained for all ſorts of liquids, is by
'ſtirring them with *cus'a*-graſs; for cloths folded, by ſprinkling
'them with hallowed water; for wooden utenſils, by planing
'them;

116. 'For the ſacrificial pots to hold clarified butter and juice of
'the moonplant, by rubbing them with the hand, and waſhing them,
'at the time of the ſacrifice:

117. 'Implements to waſh the rice, to contain the oblations, to caſt
'them into the fire, to collect, winnow, and prepare the grain, muſt be
'purified with water made hot.

118. 'The purification by ſprinkling is ordained for grain and cloths
'in large quantities; but, to purify them in ſmall parcels, *which a man
'may eaſily carry*, they muſt be waſhed.

119. 'Leathern

119. ‘ Leathern utenſils, and ſuch as are made with cane, muſt ‘ generally be purified in the ſame manner with cloths; green vege- ‘ tables, roots, and fruit, in the ſame manner with grain;

120. ‘ Silk and woollen ſtuff, with ſaline earths; blankets from *Né-* ‘ *pála*, with pounded *ariſhtas*, or *nimba* fruit; veſts and long drawers, ‘ with the fruit of the *Bilva*; mantles of *cſhumá*, with white muſtard- ‘ ſeeds.

121. ‘ Utenſils made of ſhells or of horn, of bones or of ivory, muſt ‘ be cleanſed by him, who knows the law, as mantles of *cſhumá* are ‘ purified, with the addition of cows' urine or of water.

122. ‘ Graſs, firewood, and ſtraw, are purified by ſprinkling them ‘ with water; a houſe, by rubbing, bruſhing, and ſmearing with cow- ‘ dung; an earthen pot, by a ſecond burning:

123. ‘ But an earthen pot, which has been touched with any ſpiritu- ‘ ous liquor, with urine, with ordure, with ſpittle, with pus, or with ‘ blood, cannot, even by another burning, be rendered pure.

124. ‘ Land is cleanſed by five modes; by ſweeping, by ſmearing ‘ with cowdung, by ſprinkling with cows' urine, by ſcraping, or by ‘ letting a cow paſs a day and a night on it.

125. ‘ A thing nibbled by a bird, ſmelt at by a cow, ſhaken with a ‘ foot, ſneezed on, or defiled by lice, is purified by earth ſcattered over it.

126. ‘ As long as the ſcent or moiſture, cauſed by any impurity, re- ‘ main on the thing ſoiled, ſo long muſt earth and water be repeatedly ‘ uſed in all purifications of things inanimate.

127. ‘ The

127. 'The Gods declared three pure things peculiar to *Bráhmens*; 'what has been defiled without their knowledge, what, in cases of 'doubt, they sprinkle with water; and what they commend with 'their speech.

128. 'Waters are pure, as far as a cow goes to quench her thirst 'in them, if they flow over clean earth, and are sullied by no impu- 'rity, but have a good scent, colour, and taste.

129. 'The hand of an artist *employed in his art* is always pure; so 'is every vendible commodity, when exposed to sale; and that food 'is always clean, which a student in theology has begged and receiv- 'ed: such is the sacred rule.

130. 'The mouth of a woman is constantly pure; a bird is pure on 'the fall of fruit, which he has pecked; a sucking animal, on the 'flowing of the milk; a dog, on his catching the deer:

131. 'The flesh of a wild beast slain by dogs, Menu pronounces 'pure; and that of an animal slain by other carnivorous creatures, or 'by men of the mixed class, who subsist by hunting.

132. 'All the cavities above the navel are pure, and all below it, 'unclean; so are all excretions, that fall from the body.

133. 'Gnats, clear drops from the mouth of a speaker, a sha- 'dow, a cow, a horse, sunbeams, dust, earth, air, and fire, must 'all be considered as clean, even when they touch an unclean 'thing.

134. 'For the cleanſing of veſſels, which have held ordure or urine, 'earth and water muſt be uſed, as long as they are needful; and the 'ſame for cleanſing the twelve corporeal impurities:

135. 'Oily exudations, ſeminal fluids, blood, dandruff, urine, feces, 'earwax, nailparings, phlegm, tears, concretions on the eyes, and 'ſweat, are the twelve impurities of the human frame.

136. 'By the man, who deſires purity, one piece of earth *together* '*with water* muſt be uſed for the conduit of urine, three, for that of 'the feces; ſo, ten for one hand, *that is*, *the left*; then ſeven for both: '*but*, *if neceſſary*, *more muſt be uſed*.

137. 'Such is the purification of married men; that of ſtudents 'muſt be double; that of hermits, triple; that of men wholly 'recluſe, quadruple.

138. 'Let each man ſprinkle the cavities of his body, and taſte wa- 'ter in due form, when he has diſcharged urine or feces; when he is 'going to read the *Véda*; and, invariably, before he takes his food:

139. 'Firſt, let him thrice taſte water; then twice let him wipe 'his mouth, if he *be of a twiceborn claſs*, *and* deſire corporeal purity; 'but a woman or ſervile man may once reſpectively make that ablution.

140. '*Súdras*, engaged in religious duties, muſt perform each month 'the ceremony of ſhaving their heads; their food muſt be the orts of '*Bráhmens*; and their mode of purification, the ſame with that of a '*Vaiſya*.

141. 'Such

141. 'Such drops of water, as fall from the mouth on any part of 'the body, render it not unclean; nor hairs of the beard, that enter the 'mouth; nor what adheres awhile to the teeth.

142. 'Drops, which trickle on the feet of a man holding water for 'others, are held equal to waters flowing over pure earth: by them he 'is not defiled.

143. 'He, who carries in any manner an inanimate burden, and is 'touched by any thing impure, is cleanſed by making an ablution, 'without laying his burden down.

144. 'Having vomited or been purged, let him bathe and taſte 'clarified butter, but, if he have eaten already, let him only perform an 'ablution: for him, who has been connected with a woman, bathing 'is ordained by law.

145. 'Having ſlumbered, having ſneezed, having eaten, having 'ſpitten, having told untruths, having drunk water, and going to 'read ſacred books, let him, though pure, waſh his mouth.

146. 'This perfect ſyſtem of rules for purifying men of all claſſes, 'and for cleanſing inanimate things, has been declared to you: hear 'now the laws concerning women.

147. 'By a girl, or by a young woman, or by a woman advanced 'in years, nothing muſt be done, even in her own dwelling place, ac-'cording to her mere pleaſure:

148. 'In

148. 'In childhood muſt a female be dependent on her father; in 'youth, on her huſband; her lord being dead, on her ſons; *if ſhe have 'no ſons, on the near kinſmen of her huſband; if he left no kinſmen, on 'thoſe of her father; if ſhe have no paternal kinſmen, on the ſovereign:* 'a woman muſt never ſeek independence.

149. 'Never let her wiſh to ſeparate herſelf from her father, her 'huſband, or her ſons; for, by a ſeparation from them, ſhe expoſes 'both families to contempt.

150. 'She muſt always live with a cheerful temper, with good ma-'nagement in the affairs of the houſe, with great care of the houſehold 'furniture, and with a frugal hand in all her expences.

151. 'Him, to whom her father has given her, or her brother with 'the paternal aſſent, let her obſequiouſly honour, while he lives; and, 'when he dies, let her never neglect him.

152. 'The recitation of holy texts, and the ſacrifice ordained 'by the lord of creatures, are uſed in marriages for the ſake of 'procuring good fortune to brides; but the firſt gift, *or troth 'plighted*, by the huſband is the primary cauſe *and origin* of marital 'dominion.

153. 'When the huſband has performed the nuptial rites with texts 'of the *Véda*, he gives bliſs continually to his wife here below, both 'in ſeaſon and out of ſeaſon; and he will give her happineſs in the 'next world.

154. 'Though

154. 'Though inobſervant of approved uſages, or enamoured of 'another woman, or devoid of good qualities, yet a huſband muſt 'conſtantly be revered as a god by a virtuous wife.

155. 'No ſacrifice is allowed to women apart from their huſbands, 'no religious rite, no faſting: as far only as a wife honours her lord, 'ſo far ſhe is exalted in heaven.

156. 'A faithful wife, who wiſhes to attain in heaven the manſion 'of her huſband, muſt do nothing unkind to him, be he living or 'dead:

157. 'Let her emaciate her body, by living voluntarily on pure 'flowers, roots, and fruit; but let her not, when her lord is deceaſed, 'even pronounce the name of another man.

158. 'Let her continue till death forgiving all injuries, perform-'ing harſh duties, avoiding every ſenſual pleaſure, and cheerfully 'practiſing the incomparable rules of virtue, which have been 'followed by ſuch women, as were devoted to one only huſ-'band.

159. 'Many thouſands of *Bráhmens*, having avoided ſenſuality from 'their early youth, and having left no iſſue in their families, have 'aſcended, *neverthele∫s*, to heaven;

160. 'And, like thoſe abſtemious men, a virtuous wife aſcends to 'heaven, though ſhe have no child, if, after the deceaſe of her lord, 'ſhe devote herſelf to pious auſterity:

161. 'But

161. ‘ But a widow, who, from a wiſh to bear children, ſlights ‘ her deceaſed huſband *by marrying again*, brings diſgrace on her- ‘ ſelf here below, and ſhall be excluded from the ſeat of her ‘ lord.

162. ‘ Iſſue, begotten on a woman by any other *than her huſband*, ‘ is here declared to be no progeny of hers ; no more than a child, ‘ begotten on the wife of another man, *belongs to the begetter:* nor ‘ is a ſecond huſband allowed, in any part of this code, to a virtuous ‘ woman.

163. ‘ She, who neglects her former *(púrva)* lord, though of a lower ‘ claſs, and takes another *(para)* of a higher, becomes deſpicable in ‘ this world, and is called *parapúrvá*, or *one who had a different huſband* ‘ *before.*

164. ‘ A married woman, who violates the duty, which ſhe owes to ‘ her lord, brings infamy on herſelf in this life, and, *in the next*, ſhall ‘ enter the womb of a ſhakal, or be afflicted with *elephantiaſis*, *and other* ‘ diſeaſes, which puniſh crimes ;

165. ‘ While ſhe, who ſlights not her lord, but keeps her mind, ‘ ſpeech, and body, devoted to him, attains his heavenly manſion, and ‘ by good men is called *ſádhvì*, or *virtuous*.

166. ‘ Yes ; by this courſe of life it is, that a woman, whoſe ‘ mind, ſpeech, and body are kept in ſubjection, acquires high re- ‘ nown in this world, and, in the next, the ſame abode with her huſ- ‘ band.

167. ‘ A

167. 'A twiceborn man, verſed in ſacred ordinances, muſt burn,
'with hallowed fire and fit implements of ſacrifice, his wife dying before him, if ſhe was of his own claſs, and lived by theſe rules:

168. 'Having thus kindled ſacred fires, and performed funeral rites
'to his wife, who died before him, he may again marry, and again
'light the nuptial fire.

169. 'Let him not ceaſe to perform day by day according to the
'preceding rules, the five great ſacraments; and, having taken a lawful conſort, let him dwell in his houſe during the ſecond period of his
'life.

CHAPTER THE SIXTH.

On Devotion; or on the Third and Fourth Orders.

1. 'HAVING thus remained in the order of a houſekeeper, as 'the law ordains, let the twiceborn man, who had before completed 'his ſtudentſhip, dwell in a foreſt, his faith being firm and his organs 'wholly ſubdued.

2. 'When the father of a family, perceives his muſcles become 'flaccid and his hair gray, and ſees the child of his child, let him then 'ſeek refuge in a foreſt:

3. 'Abandoning all food eaten in towns, and all his houſehold 'utenſils, let him repair to the lonely wood, committing the care of his 'wife to her ſons, or accompanied by her, *if ſhe chuſe to attend him.*

4. 'Let him take up his conſecrated fire, and all his domeſtick im-'plements of making oblations to it, and, departing from the town 'to the foreſt, let him dwell in it with complete power over his organs '*of ſenſe and of action.*

5. 'With many ſorts of pure food, ſuch as holy ſages uſed to 'eat, with green herbs, roots, and fruit, let him perform the five great

'great ſacraments before mentioned, introducing them with due cere-
'monies.

6. 'Let him wear a black antelope's hide, or a veſture of bark; 'let him bathe evening and morning; let him ſuffer the hairs of his 'head, his beard, and his nails to grow continually.

7. 'From ſuch food, as himſelf may eat, let him, to the utmoſt of 'his power, make offerings and give alms; and with preſents of 'water, roots, and fruit, let him honour thoſe, who viſit his her-'mitage.

8. 'Let him be conſtantly engaged in reading the *Véda*; patient of 'all extremities, univerſally benevolent, with a mind intent on the 'Supreme Being; a perpetual giver, but no receiver of gifts; with 'tender affection for all animated bodies.

9. 'Let him, as the law directs, make oblations on the hearth 'with three ſacred fires; not omitting in due time the ceremonies 'to be performed at the conjunction and oppoſition of the moon.

10. 'Let him alſo perform the ſacrifice ordained in honour of the 'lunar conſtellations, make the preſcribed offering of new grain, and 'ſolemnize holy rites every four months, and at the winter and ſum-'mer ſolſtices.

11. 'With pure grains, the food of ancient ſages, growing in the 'vernal and autumnal ſeaſons, and brought home by himſelf, let him 'ſeverally make, as the law ordains, the oblations of cakes and boiled 'grain;

12. 'And,

12. ‘ And, having preſented to the gods, that pureſt oblation, which ‘ the wild woods produced, let him eat what remains, together with ‘ ſome native ſalt, which himſelf collected.

13. ‘ Let him eat green herbs, flowers, roots, and fruit, that grow ‘ on earth or in water, and the productions of pure trees, and oils ‘ formed in fruits.

14. ‘ Honey and fleſhmeat he muſt avoid, and all ſorts of muſh- ‘ rooms, the plant *bhúſtrĭna*, that named *ſighruca*, and the fruit of the ‘ *ſléſhmátaca*.

15. ‘ In the month *A'ſwina* let him caſt away the food of ſages, ‘ which he before had laid up, and his veſture, then become old, and ‘ his herbs, roots, and fruit.

16. ‘ Let him not eat the produce of ploughed land, though aban- ‘ doned by any man, *who owns it*, nor fruit and roots produced in a ‘ town, even though hunger oppreſs him.

17. ‘ He may eat what is mellowed by fire, and he may eat what is ‘ ripened by time; and either let him break hard fruits with a ſtone, ‘ or let his teeth ſerve as a peſtle.

18. ‘ Either let him pluck enough for a day, or let him gather ‘ enough for a month; or let him collect enough for ſix months, or lay ‘ up enough for a year.

19. ‘ Having procured food, as he is able, he may eat it at eve or ‘ in the morning; or he may take only every fourth, or every eighth, ‘ ſuch regular meal;

20. ‘ Or,

20. 'Or, by the rules of the lunar penance, he may eat a mouthful 'lefs each day of the bright, and a mouthful more each day of the dark, 'fortnight; or he may eat only once, at the clofe of each fortnight, a 'mefs of boiled grains:

21. 'Or he may conftantly live on flowers and roots, and on fruit 'matured by time, which has fallen fpontaneoufly, ftrictly obferving 'the laws ordained for hermits.

22. 'Let him flide backwards and forwards on the ground; or let 'him ftand a whole day on tiptoe; or let him continue in motion 'rifing and fitting alternately; but at funrife, at noon, and at funfet, 'let him go to the waters and bathe.

23. 'In the hot feafon, let him fit expofed to five fires, *four blazing* '*around him with the fun above*; in the rains, let him ftand uncovered, '*without even a mantle*, where the clouds pour *the heavieft* fhowers; 'in the cold feafon, let him wear humid vefture; and let him increafe 'by degrees the aufterity of his devotion:

24. 'Performing his ablution at the three *Savanas*, let him give fa-'tisfaction to the manes and to the gods; and, enduring harfher and 'harfher mortifications, let him dry up his bodily frame.

25. 'Then, having repofited his holy fires, as the law directs, in his 'mind, let him live without external fire, without a manfion, wholly 'filent, feeding on roots and fruit;

26. 'Not folicitous for the means of gratification, chafte as a ftu-'dent, fleeping on the bare earth, in the haunts of pious hermits, 'without one felfifh affection, dwelling at the roots of trees.

27. 'From

27. ‘ From devout *Bráhmens* let him receive alms to ſupport life, or ‘ from other houſekeepers of twiceborn claſſes, who dwell in the foreſt:

28. ‘ Or the hermit may bring food from a town, having received ‘ it in a baſket of leaves, in his naked hand, or in a potſherd; and ‘ then let him ſwallow eight mouthfuls.

29. ‘ Theſe and other rules muſt a *Bráhmen*, who retires to the ‘ woods, diligently practiſe; and, for the purpoſe of uniting his ſoul ‘ with the divine ſpirit, let him ſtudy the various *upaniſhads* of ſcrip- ‘ ture, or *chapters on the eſſence and attributes of God*,

30. ‘ Which have been ſtudied with reverence by anchorites verſed ‘ in theology, and by houſekeepers, who dwelt afterwards in foreſts, ‘ for the ſake of increaſing their ſublime knowledge and devotion, and ‘ for the purification of their bodies.

31. ‘ Or, *if he has any incurable diſeaſe*, let him advance in a ſtraight ‘ path, towards the invincible *north eaſtern* point, feeding on water and ‘ air, till his mortal frame totally decay, and his ſoul become united ‘ with the Supreme.

32. ‘ A *Bráhmen*, having ſhuffled off his body by any of thoſe modes, ‘ which great ſages practiſed, and becoming void of ſorrow and fear, ‘ riſes to exaltation in the divine eſſence.

33. ‘ Having thus performed religious acts in a foreſt during the ‘ third portion of his life, let him become a *Sannyáſi* for the fourth ‘ portion of it, abandoning all ſenſual affections, *and wholly repoſing in* ‘ *the Supreme Spirit:*

34. ‘ The

34. ‘The man, who has paſſed from order to order, has made obla-
‘ tions to fire *on his reſpective changes of ſtate,* and has kept his mem-
‘ bers in ſubjection, but, tired with *ſo long a courſe of giving* alms and
‘ *making* offerings, thus repoſes himſelf entirely on GOD, ſhall be
‘ raiſed after death to glory.

35. ‘When he has paid his three debts *to the ſages, the manes, and*
‘ *the gods,* let him apply his mind to final beatitude; but low ſhall He
‘ fall, who preſumes to ſeek beatitude, without having diſcharged thoſe
‘ debts:

36. ‘After he has read the *Védas* in the form preſcribed by law, has
‘ legally begotten a ſon, and has performed ſacrifices to the beſt of his
‘ power, he *has paid his three debts, and* may then apply his heart to
‘ eternal bliſs;

37. ‘But if a *Bráhmen* have not read the *Véda,* if he have not be-
‘ gotten a ſon, and if he have not performed ſacrifices, yet ſhall aim at
‘ final beatitude, he ſhall ſink to a place of degradation.

38. ‘Having performed the ſacrifice of PRAJA'PETI, accompanied
‘ with a gift of all his wealth, *and* having repoſited in his mind the ſa-
‘ crificial fires, a *Bráhmen* may proceed from his houſe, *that is, from*
‘ *the ſecond order, or he may proceed even from the firſt,* to the condition
‘ of a *Sannyáſi.*

39. ‘Higher worlds are illuminated with the glory of that man,
‘ who paſſes from his houſe into the fourth order, giving exemption
‘ from fear to all animated beings, and pronouncing the *myſtick words*
‘ *of* the *Véda:*

40. ‘To

40. 'To the *Bráhmen*, by whom not even the ſmalleſt dread has 'been occaſioned to ſentient creatures, there can be no dread from 'any quarter whatever, when he obtains a releaſe from his mortal 'body.

41. 'Departing from his houſe, taking with him pure implements, '*his waterpot and ſtaff*, keeping ſilence, unallured by deſire of the ob-'jects near him, let him enter into the fourth order.

42. 'Alone let him conſtantly dwell, for the ſake of his own feli-'city: obſerving the happineſs of a ſolitary man, who neither forſakes 'nor is forſaken, let him live without a companion.

43. 'Let him have no culinary fire, no domicil; let him, *when very* '*hungry*, go to the town for food; let him patiently bear diſeaſe; let 'his mind be firm; let him ſtudy to know God, and fix his attention 'on God alone.

44. 'An earthen waterpot, the roots of large trees, coarſe veſture, 'total ſolitude, equanimity toward all creatures, theſe are the cha-'racteriſticks of a *Bráhmen* ſet free.

45. 'Let him not wiſh for death; let him not wiſh for life; let him 'expect his appointed time, as a hired ſervant expects his wages.

46. 'Let him advance his foot purified by looking down, *leſt he* '*touch any thing impure*; let him drink water purified by ſtraining 'with a cloth, *leſt he hurt ſome inſect*; let him, *if he chuſe to ſpeak*, 'utter words purified by truth; let him by all means keep his heart 'purified.

47. 'Let

47. 'Let him bear a reproachful ſpeech with patience; let him
'ſpeak reproachfully to no man; let him not, on account of this *frail*
'*and feveriſh* body, engage in hoſtility with any one living.

48. 'With an angry man let him not in his turn be angry; abuſed,
'let him ſpeak mildly; nor let him utter a word relating to vain illu-
'ſory things and confined within ſeven gates, *the five organs of ſenſe,*
'*the heart, and the intellect; or this world, with three above and three*
'*below it.*

49. 'Delighted with meditating on the Supreme Spirit, ſitting fixed
'in ſuch meditation, without needing any thing earthly, without one
'ſenſual deſire, without any companion but his own ſoul, let him live
'in this world ſeeking the bliſs of the next.

50. 'Neither by explaining omens and prodigies, nor by ſkill in
'aſtrology and palmeſtry, nor by caſuiſtry and expoſitions of holy
'texts, let him at any time gain his daily ſupport.

51. 'Let him not go near a houſe frequented by hermits, or prieſts,
'or birds, or dogs, or other beggars.

52. 'His hair, nails, and beard being clipped, bearing with him a
'diſh, a ſtaff, and a waterpot, his whole mind being fixed on God,
'let him wander about continually, without giving pain to *animal or*
'*vegetable* beings.

53. 'His diſhes muſt have no fracture, nor muſt they be made of
'bright metals: the purification ordained for them muſt be with wa-
'ter alone, like that of the veſſels for a ſacrifice.

54. 'A

54. ‘ A gourd, a wooden bowl, an earthen diſh, or a baſket made ‘ of reeds, has Menu, ſon of the Self-exiſting, declared fit veſſels to ‘ receive the food of *Bráhmens* devoted to God.

55. ‘ Only once a day let him demand food; let him not habituate ‘ him to eat much at a time; for an anchorite, habituated to eat much, ‘ becomes inclined to ſenſual gratifications.

56. ‘ At the time when the ſmoke of kitchen fires has ceaſed, when ‘ the peſtle lies motionleſs, when the burning charcoal is extinguiſhed, ‘ when people have eaten and when diſhes are removed, *that is, late* ‘ *in the day*, let the *Sannyáſi* always beg food.

57. ‘ For miſſing it, let him not be ſorrowful; nor for gaining it, ‘ let him be glad; let him care only for a ſufficiency to ſupport life, ‘ but let him not be anxious about his utenſils.

58. ‘ Let him conſtantly diſdain to receive food after humble re- ‘ verence; ſince, by receiving it in conſequence of an humble ſaluta- ‘ tion, a *Sannyáſi*, though free, becomes a captive.

59. ‘ By eating little and by ſitting in ſolitary places, let him re- ‘ ſtrain thoſe organs, which are naturally hurried away by ſenſual ‘ deſires.

60. ‘ By the coercion of his members, by the abſence of hate and ‘ affection, and by giving no pain to ſentient creatures, he becomes ‘ fit for immortality.

61. 'Let him reflect on the tranſmigrations of men cauſed by their 'ſinful deeds, on their downfal into a region of darkneſs, and their 'torments in the manſion of YAMA;

62. 'On their ſeparation from thoſe, whom they love, and their 'union with thoſe, whom they hate, on their ſtrength overpowered 'by old age, and their bodies racked with diſeaſe;

63. 'On their agonizing departure from this corporeal frame, their 'formation again in the womb, and the glidings of this vital ſpirit 'through ten thouſand millions of uterine paſſages;

64. 'On the miſery attached to embodied ſpirits from a violation of 'their duties, and the unperiſhable bliſs attached to them from their 'abundant performance of all duties, religious and civil.

65. 'Let him reflect alſo, with excluſive application of mind, on 'the ſubtil indiviſable eſſence of the ſupreme ſpirit, and its complete 'exiſtence in all beings, whether extremely high or extremely low.

66. 'Equalminded towards all creatures, in what order ſoever *he* '*may have been* placed, let him fully diſcharge his duty, though he bear 'not the viſible marks of his order: the viſible mark, *or mere name*, of 'his order is by no means an effective diſcharge of his duty;

67. 'As, although the fruit of the tree *cataca* purify water, yet a 'man cannot purify water by merely pronouncing the name of that 'fruit: *he muſt throw it*, *when pounded*, *into the jar*.

68. 'For

68. 'For the ſake of preſerving minute animals by night and by 'day, let him walk, though with pain to his own body, perpetually 'looking on the ground.

69. 'Let a *Sannyáſi*, by way of expiation for *the death of* thoſe 'creatures, which he may have deſtroyed unknowingly by day or by 'night, make ſix ſuppreſſions of his breath, having duly bathed:

70. 'Even three ſuppreſſions of breath made according to the di-'vine rule, accompanied with the triverbal phraſe *(bhurbhuvah ſwah)* 'and the triliteral ſyllable *(óm)*, may be conſidered as the higheſt 'devotion of a *Bráhmen*;

71. 'For as the droſs and impurities of metallick ores are conſumed 'by fire, thus are the ſinful acts of the human organs conſumed by 'ſuppreſſions of the breath, *while the myſtick words, and the meaſures of* '*the* gáyatrì *are revolved in the mind.*

72. 'Let him thus by ſuch ſuppreſſions of breath burn away his 'offences; by reflecting intenſely on the ſteps of aſcent to beatitude, '*let him deſtroy ſin*; by coercing his members, let him reſtrain all 'ſenſual attachments; by meditating on *the intimate union of his own* '*ſoul and* the divine eſſence, let him extinguiſh all qualities repugnant 'to the nature of GOD.

73. 'Let him obſerve, with extreme application of mind, the pro-'greſs of this internal ſpirit through various bodies, high and low; '*a progreſs* hard to be diſcerned by men with unimproved intellects.

74. 'He,

74. 'He, who fully underſtands the perpetual omnipreſence of 'God, can be led no more captive by criminal acts; but he, who 'poſſeſſes not that ſublime knowledge, ſhall wander again through the 'world.

75. 'By injuring nothing animated, by ſubduing all ſenſual 'appetites, by devout rites ordained in the *Véda*, and by rigorous 'mortifications, men obtain, even in this life, the ſtate of beati'tude.

76. 'A manſion with bones for its rafters and beams; with nerves 'and tendons, for cords; with muſcles and blood, for mortar; with 'ſkin, for its outward covering; filled with no ſweet perfume, but 'loaded with feces and urine;

77. 'A manſion infeſted by age and by ſorrow, the ſeat of malady, 'haraſſed with pains, haunted with the quality of darkneſs, and in'capable of ſtanding long; ſuch a manſion of the vital ſoul let its oc'cupier always cheerfully quit:

78. 'As a tree leaves the bank of a river, *when it falls in*, or as a 'bird leaves the branch of a tree *at his pleaſure*, thus he, who leaves 'his body *by neceſſity or by legal choice*, is delivered from the ravening 'ſhark, *or crocodile*, of the world.

79. 'Letting his good acts deſcend (by the law of the *Véda)* to thoſe, 'who love him, and his evil deeds, to thoſe, who hate him, he may 'attain, through devout meditation, the eternal ſpirit.

80. 'When,

80. ‘ When, having well conſidered the nature and conſequence of ‘ ſin, he becomes averſe from all ſenſual delights, he then attains bliſs ‘ in this world ; bliſs, which ſhall endure after death.

81. ‘ Thus, having gradually abandoned all earthly attachments, and ‘ indifferent to all pairs of oppoſite things, *as honour and diſhonour, and* ‘ *the like,* he remains abſorbed in the divine eſſence.

82. ‘ All, that has now been declared, is obtained by pious medita-‘ tion ; but no man, who is ignorant of the ſupreme ſpirit, can gather ‘ the fruit of mere ceremonial acts.

83. ‘ Let him conſtantly ſtudy that part of the *Véda,* which relates ‘ to ſacrifice ; that, which treats of ſubordinate deities ; that, which ‘ reveals the nature of the ſupreme God ; and whatever is declared in ‘ the *Upaniſhads.*

84. ‘ This holy ſcripture is a ſure refuge even for thoſe, who under-‘ ſtand not its meaning, and of courſe for thoſe, who underſtand it ; ‘ this *Véda* is a ſure reſſource for thoſe, who ſeek bliſs above, this *is* ‘ *a ſure reſſource* for thoſe, who ſeek bliſs eternal.

85. ‘ That *Bráhmen,* who becomes a *Sannyáſi* by this diſcipline, ‘ *announced* in due order, ſhakes off ſin here below, and reaches the ‘ moſt high.

86. ‘ This *general* law has been revealed to you for anchorites ‘ with ſubdued minds : now learn the particular diſcipline of thoſe, ‘ who become recluſes according to the *Véda,* that is, *of anchorites in the* ‘ *firſt of the four degrees.*

87. ‘ The

87. 'The ſtudent, the married man, the hermit, and the anchorite, 'are the offspring, though in four orders, of married men keeping 'houſe;

88. 'And all, or even any, of thoſe orders, aſſumed in their turn, 'according to the ſacred ordinances, lead the *Bráhmen*, who acts by 'the preceding rules, to the higheſt manſion:

89. 'But of all thoſe, the houſekeeper, obſerving the regulations of 'the *Sruti* and *Smrĭti*, may be called the chief; ſince he ſupports the 'three *other orders*.

90. 'As all rivers, female and male, run to their determined place 'in the ſea, thus men of all *other* orders, repair to their fixed place in 'the manſion of the houſekeeper.

91. 'By *Bráhmens*, placed in theſe four orders, a tenfold ſyſtem of 'duties muſt ever be ſedulouſly practiſed:

92. 'Content, returning good for evil, reſiſtance to ſenſual appe- 'tites, abſtinence from illicit gain, purification, coercion of the organs, 'knowledge of ſcripture, knowledge of the ſupreme ſpirit, veracity, 'and freedom from wrath, form their tenfold ſyſtem of duties.

93. 'Such *Bráhmens*, as attentively read the ten precepts of duty, 'and after reading, carefully practiſe them, attain the moſt exalted 'condition.

94. 'A *Bráhmen*, having practiſed, with organs under command, this 'tenfold ſyſtem of duty, having heard the *Upaniſhads* explained, as the

'law

'law directs, and who has discharged his three debts, may become an 'anchorite, *in the house of his son*, according to the *Véda*;

95. 'And, having abandoned all ceremonial acts, having expiated 'all his offences, having obtained a command over his organs, and 'having perfectly understood the scripture, he may live at his ease, 'while the household affairs are conducted by his son.

96. 'When he thus has relinquished all forms, is intent on his own 'occupation, and free from every other desire, when, by devoting 'himself to God, he has effaced sin, he then attains the supreme path 'of glory.

97. 'This fourfold regulation for the sacerdotal class, has thus been 'made known to you; a just regulation, producing endless fruit after 'death: next, learn the duty of kings, *or the military class*.'

CHAPTER THE SEVENTH.

On Government, and Publick Law; or on the Military Clafs.

1. ' I WILL fully declare the duty of kings; *and fhow* how a ' ruler of men fhould conduct himfelf, in what manner he was framed, ' and how his ultimate reward *may be attained by him.*

2. ' By a man of the military clafs, who has received in due form ' the inveftiture, which the *Véda* prefcribes, great care muft be ufed ' to maintain the whole *affemblage of laws.*

3. ' Since, if the world had no king, it would quake on all fides ' through fear, the ruler of this *univerfe*, therefore, created a king, ' for the maintenance of this fyftem, both religious and civil,

4. ' Forming him of eternal particles drawn from the fubftance of ' Indra, Pavana, Yama, Su'rya, of Agni and Varuna, of Chan- ' dra and Cuve'ra:

5. ' And fince a king was compofed of particles drawn from thofe ' chief guardian deities, he confequently furpaffes all mortals in glory.

6. ‘ Like the ſun, he burns eyes and hearts; nor can any human ‘ creature on earth even gaze on him.

7. ‘ He *is* fire and air; he, both ſun and moon; he, the god of ‘ criminal juſtice; he, the genius of wealth; he, the regent of waters; ‘ he, the lord of the firmament.

8. ‘ A king, even though a child, muſt not be treated lightly, from ‘ an idea that he is a mere mortal: no; he is a powerful divinity, ‘ who appears in a human ſhape.

9. ‘ Fire burns only one perſon, who careleſsly goes too near it; ‘ but the fire of a king in wrath burns a whole family, with all their ‘ cattle and goods.

10. ‘ Fully conſidering the buſineſs before him, his own force, and ‘ the place, and the time, he aſſumes in ſucceſſion all ſorts of forms, ‘ for the ſake of advancing juſtice.

11. ‘ He, ſure, muſt be the perfect eſſence of majeſty, by whoſe ‘ favour Abundance riſes on her lotos, in whoſe valour dwells con‘ queſt; in whoſe anger, death.

12. ‘ He, who ſhows hatred of the king, through deluſion of mind, ‘ will certainly periſh; for ſpeedily will the king apply his heart to ‘ that man's perdition.

13. ‘ Let the king prepare a juſt compenſation for the good, and ‘ a juſt puniſhment for the bad: the rule of ſtrict juſtice let him never ‘ tranſgreſs.

14. ‘ For

14. 'For his uſe BRAHMA' formed in the beginning of time the 'genius of puniſhment, with a body of pure light, his own ſon, even 'abſtract criminal juſtice, the protector of all created things:

15. 'Through fear of that genius all ſentient beings, whether 'fixed or locomotive, are fitted for natural enjoyments and ſwerve 'not from duty.

16. 'When the king, therefore, has fully conſidered place and time, 'and his own ſtrength, and the divine ordinance, let him juſtly inflict 'puniſhment on all thoſe, who act unjuſtly.

17. 'Puniſhment is an active ruler; he is the true manager of pub-'lick affairs; he is the diſpenſer of laws; and wiſe men call him the 'ſponſor of all the four orders for the diſcharge of their ſeveral duties.

18. 'Puniſhment governs all mankind; puniſhment alone preſerves 'them; puniſhment wakes, while their guards are aſleep: the wiſe 'conſider puniſhment as the perfection of juſtice.

19. 'When rightly and conſiderately inflicted, it makes all the peo-'ple happy; but, inflicted without full conſideration, it wholly deſtroys 'them all.

20. 'If the king were not, without indolence, to puniſh the guilty, 'the ſtronger would roaſt the weaker, like fiſh, on a ſpit; (*or, according to one reading*, the ſtronger would oppreſs the weaker, like fiſh in 'their element;)

21. 'The

21. 'The crow would peck the confecrated offering of rice; the 'dog would lick the clarified butter; ownerfhip would remain with 'none; the loweft would overfet the higheft.

22. 'The whole race of men is kept in order by punifhment; for 'a guiltlefs man is hard to be found: through fear of punifhment, 'indeed, this univerfe is enabled to enjoy its bleffings;

23. 'Deities and demons, heavenly fongfters and cruel giants, birds 'and ferpents, are made capable, by juft correction, of their feveral 'enjoyments.

24. 'All claffes would become corrupt; all barriers would be de-'ftroyed, there would be total confufion among men, if punifhment 'either were not inflicted, or were inflicted unduly:

25. 'But where punifhment, with a black hue and a red eye, ad-'vances to deftroy fin, there, if the judge difcern well, the people are 'undifturbed.

26. 'Holy fages confider as a fit difpenfer of criminal juftice, that 'king, who invariably fpeaks truth, who duly confiders all cafes, who 'underftands the facred books, who knows the diftinctions of virtue, 'pleafure, and riches;

27. 'Such a king, if he juftly inflict legal punifhments, greatly in-'creafes thofe three means of happinefs; but punifhment itfelf fhall 'deftroy a king, who is crafty, voluptuous, and wrathful:

28. 'Criminal

28. 'Criminal juſtice, the bright eſſence of majeſty, and hard to be 'ſupported by men with unimproved minds, eradicates a king, who 'ſwerves from his duty, together with all his race:

29. 'Puniſhment ſhall overtake his caſtles, his territories, his peo-'pled land with all fixed and all moveable things, that exiſt on it: 'even the gods and the ſages, *who loſe their oblations*, will be afflicted 'and aſcend to the ſky.

30. 'Juſt puniſhment cannot be inflicted by an ignorant and co-'vetous king, who has no wiſe and virtuous aſſiſtant, whoſe under-'ſtanding has not been improved, and whoſe heart is addicted to 'ſenſuality:

31. 'By a king, wholly pure, faithful to his promiſe, obſervant of 'the ſcriptures, with good aſſiſtants and ſound underſtanding, may 'puniſhment be juſtly inflicted.

32. 'Let him in his own domains act with juſtice, chaſtiſe foreign 'foes with rigour, behave without duplicity to his affectionate friends, 'and with lenity to *Bráhmens*.

33. 'Of a king thus diſpoſed, even though he ſubſiſt by gleaning, *or*, '*be his treaſure ever ſo ſmall*, the fame is far ſpread in the world, like 'a drop of oil in water;

34. 'But of a king with a contrary diſpoſition, with paſſions un-'ſubdued, *be his riches ever ſo great*, the fame is contracted in the 'world, like clarified butter in the ſame element.

35. 'A

35. 'A king was created as the protector of all thoſe claſſes and or-
' ders, who, from the firſt to the laſt, diſcharge their ſeveral duties;

36. '*And* all, that muſt be done by him, for the protection of his ' people, with the aſſiſtance of good miniſters, I will declare to you, as ' the law directs, in due order.

37. 'Let the king, having riſen at early dawn, reſpectfully attend ' to *Bráhmens*, learned in the three *Védas*, and in the ſcience of ' ethicks; and by their deciſion let him abide.

38. 'Conſtantly muſt he ſhow reſpect to *Bráhmens*, who have ' grown old, *both in years and in piety*, who know the ſcriptures, who ' *in body and mind* are pure; for he, who honours the aged, will ' perpetually be honoured even by cruel demons:

39. 'From them, though he may have acquired modeſt behaviour ' *by his own good ſenſe and by ſtudy*, let him continually learn habits of ' modeſty and compoſure; ſince a king, whoſe demeanour is humble ' and compoſed, never periſhes.

40. 'While, through want of ſuch humble virtue, many kings have ' periſhed with all their poſſeſſions, and, through virtue united with ' modeſty, even hermits have obtained kingdoms.

41. 'Through want of that virtuous humility Ve'na was utterly ruin-' ed, and ſo was the great king Nahusha, and Suda'sa, and Yavana ' *(or, by a different reading*, and Suda'sa, the ſon of Piyavana), and ' Sumac'ha, and Nimi;

42. 'But,

42. 'But, by virtues with humble behaviour, PRĬT'HU and MENU 'acquired ſovereignty; CUVE'RA, wealth inexhauſtible; and VISWA'-'MITRA, ſon of GA'DHI, the rank of a prieſt, *though born in the mili-'tary claſs.*

43. 'From thoſe, who know the three *Védas*, let him learn the triple 'doctrine compriſed in them, together with the primeval ſcience of 'criminal juſtice and ſound policy, the ſyſtem of logick and meta-'phyſicks, and ſublime theological truth: from the people he muſt 'learn the theory of *agriculture*, *commerce*, *and other* practical arts.

44. 'Day and night muſt he ſtrenuouſly exert himſelf to gain com-'plete victory over his own organs; ſince that king alone, whoſe or-'gans are completely ſubdued, can keep his people firm to their duty.

45. 'With extreme care let him ſhun eighteen vices, ten proceeding 'from love of pleaſure, eight ſpringing from wrath, and all ending in 'miſery;

46. 'Since a king, addicted to vices ariſing from love of pleaſure, 'muſt loſe both his wealth and his virtue, and, addicted to vices ariſing 'from anger, he may loſe even his life *from the publick reſentment*.

47. 'Hunting, gaming, ſleeping by day, cenſuring rivals, exceſs with 'women, intoxication, ſinging, inſtrumental muſick, dancing, and uſe-'leſs travel, are the tenfold ſet of vices produced by love of pleaſure:

48. 'Talebearing, violence, inſidious wounding, envy, detraction, 'unjuſt ſeizure of property, reviling, and open aſſault, are in like 'manner the eightfold ſet of vices, to which anger gives birth.

49. 'A

49. 'A ſelfiſh inclination, which all wiſe men know to be the root 'of thoſe two ſets, let him ſuppreſs with diligence: both ſets of vices 'are conſtantly produced by it.

50. 'Drinking, dice, women, and hunting, let him conſider as the 'four moſt pernicious in the ſet, which love of pleaſure occaſions:

51. 'Battery, defamation, and injury to property, let him always 'conſider as the three moſt heinous in the ſet, which ariſes from 'wrath;

52. '*And* in this ſevenfold aſſemblage of vices, too frequently pre-'vailing in all kingdoms, let an enlightened prince conſider the firſt, 'and ſo forth in order, as the moſt abominable in each ſet.

53. 'On a compariſon between death and vice, the learned pro-'nounce vice the more dreadful; ſince, after death, a vicious man ſinks 'to regions lower and lower, while a man, free from vice, reaches 'heaven.

54. 'THE king muſt appoint ſeven or eight miniſters, who muſt be 'ſworn *by touching a ſacred image and the like*; men, whoſe anceſtors 'were ſervants of kings; who are verſed in the holy books; who are 'perſonally brave; who are ſkilled in the uſe of weapons; and whoſe 'lineage is noble.

55. 'Even an act eaſy in itſelf is hard ſometimes to be performed by 'a ſingle man, eſpecially if he have no aſſiſtant near: how much 'harder *muſt it be to perform alone the buſineſs of* a kingdom with 'great revenues!

56. 'Let

56. 'Let him perpetually conſult with thoſe miniſters on peace and 'war, on his forces, on his revenues, on the protection of his people, and 'on the means of beſtowing aptly the wealth, which he has acquired:

57. 'Having aſcertained the ſeveral opinions of his counſellors, *firſt* 'apart and *then* collectively, let him do what is moſt beneficial for 'him in publick affairs.

58. 'To one learned *Bráhmen*, diſtinguiſhed among them all, let the 'king impart his momentous counſel, relating to ſix *principal* articles.

59. 'To him, with full confidence, let him intruſt all tranſactions; 'and with him, having taken his final reſolution, let him begin all his 'meaſures.

60. 'He muſt likewiſe appoint other officers; men of integrity, well 'informed, ſteady, habituated to gain wealth by honourable means, 'and tried by experience.

61. 'As many officers as the due performance of his buſineſs requires, 'not ſlothful men, *but active*, able, and well inſtructed, ſo many, and 'no more, let him appoint.

62. 'Among thoſe let him employ the brave, the ſkilful, the well-'born, and the honeſt, in his mines *of gold or gems*, and in other 'ſimilar works *for amaſſing wealth*; but the puſillanimous, in the re-'ceſſes of his palace.

63. 'Let him likewiſe appoint an ambaſſador verſed in all the '*Sáſtras*, who underſtands hints, external ſigns, and actions, *whoſe hand*

'*and heart are* pure, whofe abilities are great, and whofe birth was
'illuftrious:

64. 'That royal ambaffador is applauded moft, who is generally 'beloved, pure within and without, dextrous in bufinefs, and endued 'with an excellent memory; who knows countries and times, is hand- 'fome, intrepid, and eloquent.

65. 'The forces of the realm muft be immediately regulated by 'the commander in chief; the actual infliction of punifhment, by the 'officers of criminal juftice; the treafury and the country, by the king 'himfelf; peace and war, by the ambaffador;

66. 'For it is the ambaffador alone, who unites, who alone disjoins 'the united; that is, he tranfacts the bufinefs, by which kingdoms are 'at variance or in amity.

67. 'In the tranfaction of affairs let the ambaffador comprehend the 'vifible figns and hints, and difcover the acts, of the foreign king, by 'the figns, hints, and acts of his confidential fervants, and the mea- 'fures, which that king wifhes to take, by *the character and conduct of* 'his minifters.

68. 'Thus, having learned completely *from his ambaffador* all the 'defigns of the foreign prince, let the king fo apply his vigilant care, 'that he bring no evil on himfelf.

69. 'Let him fix his abode in a diftrict containing open cham- 'paigns; abounding with grain; inhabited chiefly by the virtuous; 'not infected with maladies; beautiful to the fight; furrounded by

'fubmiffive

'submiſſive *mountaineers, foreſters, or other* neighbours; a country, in 'which the ſubjects may live at eaſe.

70. 'There let him reſide in a capital, having, by way of a fortreſs, 'a deſert *rather more than twenty miles round it*, or a fortreſs of earth, 'a fortreſs of water, or of trees, a fortreſs of armed men, or a fortreſs 'of mountains.

71. 'With all poſſible care let him ſecure a fortreſs of mountains; 'for, among thoſe juſt mentioned, a fortreſs of mountains has many 'tranſcendent properties.

72. 'In the three firſt of them live wild beaſts, vermin, and aqua-'tick animals; in the three laſt, apes, men, and gods, in order as 'they are named:

73. 'As enemies hurt them not in the ſhelter of their ſeveral abodes, 'thus foes hurt not a king, who has taken refuge in his *durga*, or *place* '*of difficult acceſs*.

74. 'One bowman, placed on a wall, is a match in war for a hun-'dred enemies; and a hundred, for ten thouſand; therefore is a fort 'recommended.

75. 'Let that fort be ſupplied with weapons, with money, with 'grain, with beaſts, with *Bráhmens*, with artificers, with engines, 'with graſs, and with water.

76. 'In the centre of it let him raiſe his own palace, well finiſhed 'in all its parts, completely defended, habitable in every ſeaſon, bril-'liant *with white ſtucco*, ſurrounded with water and trees:

77. 'Having

77. ‘ Having prepared it for his manſion, let him chuſe a conſort
‘ of the ſame claſs with himſelf, endued with all the bodily marks of
‘ excellence, born of an exalted race, captivating his heart, adorned
‘ with beauty and the beſt qualities.

78. ‘ He muſt appoint alſo a domeſtick prieſt, and retain a per-
‘ former of ſacrifices, who may ſolemnize the religious rites of his
‘ family, and thoſe performed with three ſacred fires.

79. ‘ Let the king make ſacrifices, accompanied with gifts of many
‘ different kinds; and, for the full diſcharge of his duty, let him give
‘ the *Bráhmens* both legal enjoyments and moderate wealth.

80. ‘ His annual revenue he may receive from his whole dominion
‘ through his collectors; but let him in this world obſerve the divine
‘ ordinances; let him act as a father to his people.

81. ‘ Here and there he muſt appoint many ſorts of intelligent ſuper-
‘ viſors, who may inſpect all the acts of the officers engaged in his buſineſs.

82. ‘ To *Bráhmens* returned from the manſions of their preceptors,
‘ let him ſhow due reſpect; for that is called a precious unperiſhable
‘ gem, depoſited by kings with the ſacerdotal claſs:

83. ‘ It is a gem, which neither thieves or foes take away; which
‘ never periſhes: kings muſt, therefore, depoſit with *Bráhmens* that
‘ indeſtructible jewel *of reſpectful preſents*.

84. ‘ An oblation in the mouth, *or hand*, of a *Bráhmen*, is far better
‘ than offerings to holy fire: it never drops; it never dries; it is never
‘ conſumed.

85. ‘ A

85. ‘ A gift to one not a *Bráhmen* produces fruit of a middle ſtand-
‘ ard; to one, who calls himſelf a *Bráhmen*, double; to a well read
‘ *Brahmen*, a hundred thouſand fold; to one, who has read all the
‘ *Védas*, infinite.

86. ‘ Of a gift, made with faith in the *Sáſtra*, to a perſon highly de-
‘ ſerving it, the giver ſhall indubitably gain the fruit after death, be
‘ the preſent ſmall or great.

87. ‘ A KING, while he protects his people, being defied by an
‘ enemy of equal, greater, or leſs force, muſt by no means turn his
‘ face from battle, but muſt remember the duty of his military
‘ claſs:

88. ‘ Never to recede from combat, to protect the people, and to
‘ honour the prieſts, is the higheſt duty of kings and inſures their
‘ felicity.

89. ‘ Thoſe rulers of the earth, who, deſirous of defeating each
‘ other, exert their utmoſt ſtrength in battle, without ever averting
‘ their faces, aſcend after death directly to heaven.

90. ‘ LET no man, engaged in combat, ſmite his foe with *ſharp*
‘ weapons concealed *in wood*, nor with arrows miſchievouſly barbed,
‘ nor with poiſoned arrows, nor with darts blazing with fire;

91. ‘ Nor let him *in a car or on horſeback*, ſtrike his enemy alighted
‘ on the ground; nor an effeminate man; nor one, who ſues for life
‘ with cloſed palms; nor one, whoſe hair is looſe *and obſtructs his ſight*;
‘ nor one, who ſits down *fatigued*; nor one, who ſays, “ I am thy
‘ captive;”

92. ‘ Nor

92. ‘ Nor one, who ſleeps ; nor one, who has loſt his coat of mail ; ‘ nor one, who is naked ; nor one, who is diſarmed ; nor one, who is ‘ a ſpectator, but not a combatant ; nor one, who is fighting with ano- ‘ ther man :

93. ‘ Calling to mind the duty of honourable men, let him never ‘ ſlay one, who has broken his weapon ; nor one, who is afflicted ‘ *with private ſorrow* ; nor one, who has been grievouſly wounded ; ‘ nor one, who is terrified ; nor one, who turns his back.

94. ‘ The ſoldier, indeed, who, fearing and turning his back, hap- ‘ pens to be ſlain by his foes in an engagement, ſhall take upon himſelf ‘ all the ſin of his commander, whatever it be ;

95. ‘ And the commander ſhall take to himſelf *the fruit of* all the ‘ good conduct, which the ſoldier, who turns his back and is killed, ‘ had previouſly ſtored up for a future life.

96. ‘ CARS, horſes, elephants, umbrellas, habiliments, *except the* ‘ *jewels which may adorn them*, grain, cattle, women, all ſorts of li- ‘ quids and metals, except gold and ſilver, are the lawful prizes of the ‘ man who takes them in war ;

97. ‘ But of thoſe prizes the captors muſt lay the moſt valuable ‘ before the king : ſuch is the rule in the *Véda* concerning them ; and ‘ the king ſhould diſtribute among the whole army what has not been ‘ ſeparately taken.

98. ‘ Thus has been declared the blameleſs primeval law for mili- ‘ tary men : from this law a king muſt never depart, when he attacks ‘ his foes in battle.

99. ‘ What

99. 'What he has not gained *from his foe*, let him ſtrive to gain; 'what he has acquired, let him preſerve with care; what he preſerves, 'let him augment; and what he has augmented, let him beſtow on 'the deſerving.

100. 'This is the fourfold rule, which he muſt conſider as the ſure 'means of attaining the great object of man, *happineſs*; and let him 'practiſe it fully without intermiſſion, without indolence:

101. 'What he has not gained, let him ſtrive to gain by military 'ſtrength; what he has acquired, let him preſerve by careful inſpec- 'tion; what he has preſerved, let him augment by legal modes of in- 'creaſe; and what he has augmented, let him diſpenſe with juſt liberality.

102. 'Let his troops be conſtantly exerciſed; his prowefs, conſtant- 'ly diſplayed; what he ought to ſecure, conſtantly ſecured; and the 'weakneſs of his foe, conſtantly inveſtigated.

103. 'By a king, whoſe forces are always ready for action, the 'whole world may be kept in awe; let him then, by a force always 'ready, make all creatures living his own.

104. 'Let him act on all occaſions without guile, and never with 'inſincerity; but, keeping himſelf ever on his guard, let him diſcover 'the fraud intended by his foe.

105. 'Let not his enemy diſcern his vulnerable part, but the vul- 'nerable part of his enemy let him well diſcern: like a tortoiſe, let 'him draw in his members under *the ſhell of* concealment, and dili- 'gently let him repair any breach, that may be made in it.

106. 'Like

106. 'Like a heron, let him muſe on gaining advantages; like a 'lion, let him put forth his ſtrength; like a wolf, let him creep 'towards his prey; like a hare, let him double to ſecure his re-'treat.

107. 'When he thus has prepared himſelf for conqueſt, let him re-'duce all oppoſers to ſubmiſſion by negotiation and three other expe-'dients, *namely*, *preſents*, *diviſion*, *and force of arms*:

108. 'If they cannot be reſtrained by the three firſt methods, then 'let him, firmly but gradually, bring them to ſubjection by military 'force.

109. 'Among thoſe four modes of obtaining ſucceſs, the wiſe prefer 'negotiation and war for the exaltation of kingdoms.

110. 'As a huſbandman plucks up weeds and preſerves his corn, 'thus let a king deſtroy his opponents and ſecure his people.

111. 'That king, who, through weakneſs of intellect, raſhly op-'preſſes his people, will, together with his family, be deprived both 'of kingdom and life:

112. 'As, by the loſs of bodily ſuſtenance, the lives of animated 'beings are deſtroyed, thus, by the diſtreſs of kingdoms, are deſtroyed 'even the lives of kings.

113. 'For the ſake of protecting his dominions, let the king per-'petually obſerve the following rules; for, by protecting his dominions, 'he will increaſe his own happineſs.

114. 'Let

114. 'Let him place, as the protectors of his realm, a company
'of guards, commanded by an approved officer, over two, three, five,
'or a hundred districts, *according to their extent.*

115. 'Let him appoint a lord of one town with its district, a lord of ten
'towns, a lord of twenty, a lord of a hundred, and a lord of a thousand.

116. 'Let the lord of one town certify of his own accord to the
'lord of ten towns any *robberies, tumults, or other* evils, which arise in
'his district, *and which he cannot suppress*; and the lord of ten, to the
'lord of twenty:

117. 'Then let the lord of twenty towns notify them to the lord of
'a hundred; and let the lord of a hundred transmit the information
'himself to the lord of a thousand townships.

118. 'Such food, drink, wood, and other articles, as by law should
'be given each day to the king by the inhabitants of the township,
'let the lord of one town receive *as his perquisite:*

119. 'Let the lord of ten towns enjoy the produce of two plough-
'lands, *or as much ground as can be tilled with two ploughs, each drawn*
'*by six bulls*; the lord of twenty, that of five ploughlands; the lord of
'a hundred, that of a village or small town; the lord of a thousand,
'that of a large town.

120. 'The affairs of those *townships*, either jointly or separately
'transacted, let another minister of the king inspect; who should be
'well affected, and by no means remiss.

121. 'In every large town or city, let him appoint one ſuper-
'intendent of all affairs, elevated in rank, formidable in power, diſ-
'tinguiſhed as a planet among ſtars:

122. 'Let that governor from time to time ſurvey all the reſt in
'perſon, and, by means of his emiſſaries, let him perfectly know their
'conduct in their ſeveral diſtricts.

123. 'Since the ſervants of the king, whom he has appointed guar-
'dians of diſtricts, are generally knaves, who ſeize what belongs to
'other men, from ſuch knaves let him defend his people:

124. 'Of ſuch evilminded ſervants, as wring wealth from ſubjects
'attending them on buſineſs, let the king confiſcate all the poſſeſſions,
'and baniſh them from his realm.

125. 'For women, employed in the ſervice of the king, and for
'his whole ſet of menial ſervants, let him daily provide a main-
'tenance, in proportion to their ſtation and to their work:

126. 'One *pana* of copper muſt be given *each day* as wages to the
'loweſt ſervant, with two cloths *for apparel* every half year, and a
'*dróna* of grain every month; to the higheſt *muſt be given wages in the*
'*ratio of* ſix *to one.*

127. 'Having aſcertained the rates of purchaſe and ſale, *the length*
'*of* the way, the expences of food and of condiments, the charges of
'ſecuring the goods carried, and the neat profits of trade, let the king
'oblige traders to pay taxes *on their ſaleable commodities:*

128. 'After

128. 'After full consideration, let a king so levy those taxes continually in his dominions, that both he and the merchant may receive a just compensation for their several acts.

129. 'As the leech, the suckling calf, and the bee, take their natural food by little and little, thus must a king draw from his dominions an annual revenue.

130. 'Of cattle, of gems, of gold and silver, *added each year to the capital stock*, a fiftieth part may be taken by the king; of grain, an eighth part, a sixth, or a twelfth, *according to the difference of the soil, and the labour necessary to cultivate it*.

131. 'He may also take a sixth part of the clear annual increase of trees, fleshmeat, honey, clarified butter, perfumes, medical substances, liquids, flowers, roots, and fruit,

132. 'Of gathered leaves, potherbs, grass, utensils made with leather or cane, earthern pots, and all things made of stone.

133. 'A king, even though dying *with want*, must not receive any tax from a *Bráhmen* learned in the *Vedas*, nor suffer such a *Bráhmen*, residing in his territories, to be afflicted with hunger:

134. 'Of that king, in whose dominion a learned *Bráhmen* is afflicted with hunger, the whole kingdom will in a short time be afflicted with famine.

135. 'The king, having ascertained his knowledge of scripture and good morals, must allot him a suitable maintenance, and protect him on all sides, as a father protects his own son:

136. 'By

136. 'By that religious duty, which ſuch a *Bráhmen* performs each 'day, under the full protection of the ſovereign, the life, wealth, and 'dominions of his protector ſhall be greatly increaſed.

137. 'Let the king order a mere trifle to be paid, in the name of 'the annual tax, by the meaner inhabitants of his realm, who ſubſiſt 'by petty traffick:

138. 'By low handicraftſmen, artificers, and ſervile men, who ſup'port themſelves by labour, the king may cauſe work to be done for a 'day in each month.

139 'Let him not cut up his own root *by taking no revenue*, nor 'the root of other men by exceſs of covetouſneſs; for, by cutting up 'his own root *and theirs*, he makes both himſelf and them wretched.

140. 'Let him, conſidering the *diverſity of* caſes, be *occaſionally* 'ſharp and *occaſionally* mild, ſince a king, duly ſharp and mild, be'comes univerſally approved.

141. 'When tired of overlooking the affairs of men, let him aſſign 'the ſtation *of ſuch an inſpector* to a principal miniſter, who well 'knows his duty, who is eminently learned, whoſe paſſions are ſub'dued, and whoſe birth is exalted.

142. 'Thus muſt he protect his people, diſcharging, with great 'exertion and without languor, all thoſe duties, which the law re'quires him to perform.

143. 'That monarch, whoſe ſubjects are carried from his kingdom 'by ruffians, while they call aloud for protection, and he barely looks 'on them with his miniſters, is a dead, and not a living, king.

144. 'The

144. 'The higheſt duty of a military man is the defence of his
'people, and the king, who receives the conſideration juſt mentioned,
'is bound to diſcharge that duty.

145. 'HAVING riſen in the laſt watch of the night, his body being
'pure, and his mind attentive, having made oblations to fire, and
'ſhown due reſpect to the prieſts, let him enter his hall decently
'ſplendid:

146. 'Standing there, let him gratify his ſubjects, before he diſmiſs
'them, *with kind looks and words*; and, having diſmiſſed them all, let
'him take ſecret council with his principal miniſters:

147. 'Aſcending up the back of a mountain, or going privately to
'a terrace, a bower, a foreſt, or a lonely place, without liſteners, let
'him conſult with them unobſerved.

148. 'That prince, of whoſe weighty ſecrets all aſſemblies of men
'are ignorant, ſhall attain dominion over the whole earth, though *at*
'*firſt* he poſſeſs no treaſure.

149. 'At the time of conſultation, let him remove the ſtupid, the
'dumb, the blind, and the deaf, talking birds, decrepit old men, wo-
'men, and infidels, the diſeaſed and the maimed;

150. 'Since thoſe, who are diſgraced *in this life by reaſon of ſins*
'*formerly committed*, are apt to betray ſecret council; ſo are talking
'birds; and ſo above all are women: them he muſt, for that reaſon,
'diligently remove.

151. 'At

151. 'At noon or at midnight, when his fatigues have ceaſed, and 'his cares are diſperſed, let him deliberate, with thoſe miniſters or 'alone, on virtue, lawful pleaſure, and wealth;

152. 'On the means of reconciling the acquiſition of them, when 'they oppoſe each other; on beſtowing his daughters in marriage, and 'on preſerving his ſons *from evil by the beſt education*;

153. 'On ſending ambaſſadors and meſſengers; on the probable 'events of his meaſures; on the behaviour *of his women* in the private 'apartment; and on the acts even of his own emiſſaries.

154. 'On the whole eightfold buſineſs of kings, *relating to the 'revenue, to their expences, to the good or bad conduct of their miniſters, 'to legiſlation in dubious caſes, to civil and criminal juſtice, and to expia-'tions for crimes*, let him reflect with the greateſt attention; on his 'five ſorts of ſpies, *or active and artful youths, degraded anchorets, diſ-'treſſed huſbandmen, decayed merchants, and fictitious penitents, whom he 'muſt pay and ſee privately*; on the good will or enmity *of his neigh-'bours*, and on the ſtate of the circumjacent countries.

155. 'On the conduct of that foreign prince, who has moderate 'ſtrength *equal to one ordinary foe, but no match for two*; on the deſigns 'of him, who is willing *and able* to be a conqueror; on the condition 'of him, who is pacifick, *but a match even for the former unallied*; and 'on that of his *natural* enemy, let him ſeduloully meditate:

156. 'Thoſe *four powers*, who, in one word, are the root or *principal 'ſtrength*, of the countries round him, added to eight others, *who are 'called the* branches, *and are as many degrees of allies and opponents*

'*variouſly*

'*variously distinguished,* are declared to be twelve chief objects *of the* '*royal consideration* ;

157. 'And five other heads, namely, their ministers, their territories, 'their strong holds, their treasuries, and their armies, being applied 'to each *of those twelve*, there are in all, *together with them*, seventy- 'two *foreign* objects *to be carefully investigated.*

158. 'Let the king consider as hostile to him the power imme- 'diately beyond him, and the favourer of that power; as amicable, 'the power next beyond his *natural* foe; and as neutral, the powers 'beyond that *circle :*

159. 'All those *powers* let him render subservient to his interest by 'mild measures and the other *three* expedients *before mentioned*, either 'separate or united, but principally by valour and policy *in arms and* '*negotiation*.

160. 'Let him constantly deliberate on the six measures of a military 'prince, *namely*, waging war, and making peace or alliance, march- 'ing to battle, and sitting encamped, distributing his forces, and seek- 'ing the protection of a more powerful monarch:

161. 'Having considered the posture of affairs, let him occasionally 'apply to it the measure of sitting inactive, or of marching to action, 'of peace, or of war, of dividing his force, or of seeking protection.

162. 'A king must know, that there are two sorts of alliance and 'war; two, of remaining encamped, and of marching; two, likewise, 'of dividing his army, and of obtaining protection from another power.

163. 'The

163. ‘ The two ſorts of alliance, attended with preſent and future ‘ advantages, are held to be thoſe, when he acts in conjunction with ‘ his ally, and when he acts apart from him.

164. ‘ War is declared to be of two ſorts; when it is waged for an ‘ injury to himſelf, and when it is waged for an injury to his ally, with ‘ a view to haraſs the enemy both in ſeaſon and out of ſeaſon.

165. ‘ Marching is of two ſorts, when deſtructive acts are done at ‘ his own pleaſure by himſelf apart, or when his ally attends him.

166. ‘ The two ſorts of ſitting encamped are, *firſt*, when he has ‘ been gradually weakened by the divine power, or by the operation ‘ of paſt ſins, and, *ſecondly*, when, to favour his ally, he remains in ‘ his camp.

167. ‘ A detachment commanded by the king in perſon, and a de‘ tachment commanded by a general officer, for the purpoſe of carry‘ ing ſome important point, are declared by thoſe, who well know the ‘ ſix meaſures, to be the two modes of dividing his army.

168. ‘ The two modes of ſeeking protection, that his powerful ſup‘ port may be proclaimed in all countries, are, *firſt*, when he wiſhes ‘ to be ſecure from apprehended injury, and, *next*, when his enemies ‘ actually aſſail him.

169. ‘ When the king knows with certainty, that at ſome future ‘ time his force will be greatly augmented, and when, at the time pre‘ ſent, he ſuſtains little injury, let him then have recourſe to peaceful ‘ meaſures;

170. ‘ But,

170. ‘ But, when he ſees all his ſubjects conſiderably firm in ſtrength,
‘ and feels himſelf highly exalted in power, let him protect his do-
‘ minions by war.

171. ‘ When he perfectly knows his own troops to be cheerful and
‘ well ſupplied, and thoſe of his enemy quite the reverſe, let him
‘ eagerly march againſt his foes ;

172. ‘ But, when he finds himſelf weak in beaſts of burden and in
‘ troops, let him then ſit quiet in camp, uſing great attention, and
‘ pacifying his enemy by degrees.

173. ‘ When a king ſees his foes ſtronger in all reſpects than him-
‘ ſelf, let him detach a part of his army, *to keep the enemy amuſed*, and
‘ ſecure his own ſafety *in an inacceſſible place* ;

174. ‘ But, when he is in all places aſſailable by the hoſtile troops,
‘ let him ſpeedily ſeek the protection of a juſt and powerful monarch.

175. ‘ Him, who can keep in ſubjection both his own ſubjects and
‘ his foes, let him conſtantly ſooth by all ſorts of attentive reſpect, as
‘ he would honour his father, natural or ſpiritual:

176. ‘ But if, even in that ſituation, he find ſuch protection a
‘ cauſe of evil, let him alone, though weak, wage vigorous war with-
‘ out fear.

177. ‘ By all theſe expedients let a politick prince act with ſuch
‘ wiſdom, that neither allies, neutral powers, nor foes, may gain over
‘ him any great advantage.

178. ‘ Perfectly let him consider the state of his kingdom both ‘ actually present and probably future, with the good and bad parts of ‘ all his actions:

179. ‘ That king shall never be overcome by his enemies, who fore- ‘ sees the good and evil to ensue from his measures; who, on present ‘ occasions, takes his resolution with prudent speed, and who weighs ‘ the various events of his past conduct.

180. ‘ Let him so arrange all his affairs, that no ally, neutral prince, ‘ or enemy, may obtain any advantage over him: this, in few words, ‘ is the sum of political wisdom.

181. ‘ WHEN the king begins his march against the domains of his ‘ foe, let him gradually advance, in the following manner, against the ‘ hostile metropolis.

182. ‘ Let him set out on his expedition in the fine month of *Már-* ‘ *gasírsha*, or about the month of *Phálguna* and *Chaitra*, according to ‘ *the number of* his forces, *that he may find autumnal or vernal crops in* ‘ *the country invaded by him:*

183. ‘ Even in other seasons, when he has a clear prospect of victory, ‘ and when any disaster has befallen his foe, let him advance with the ‘ greater part of his army.

184. ‘ Having made a due arrangement of affairs in his own do- ‘ minions, and a disposition fit for his enterprise, having provided all ‘ things necessary for his continuance in the foreign realm, and hav- ‘ ing seen all his spies dispatched with propriety,

185. ‘ Having

185. 'Having ſecured the three ſort of ways, *over water*, *on plains*, 'and *through foreſts*, and placed his ſixfold army, *elephants*, *cavalry*, '*cars*, *infantry*, *officers*, and *attendants*, in complete military form, 'let him proceed by fit journies toward the metropolis of his enemy.

186. 'Let him be much on his guard againſt every ſecret friend in 'the ſervice of the hoſtile prince, and againſt emiſſaries, who go and 'return; for in ſuch friends he may find very dangerous foes.

187. 'On his march let him form his troops, either like a ſtaff, *or in* '*an even column*; like a wain, *or in a wedge with the apex foremoſt*; 'like a boar, *or in a rhomb with the van and rear narrow and the centre* '*broad*; like a *Macara* or *ſea monſter*, *that is*, *in a double triangle with* '*apices joined*; like a needle, *or in a long line*; or like the bird of 'VISHNU, *that is*, *in a rhomboid with the wings far extended*:

188. 'From whatever ſide he apprehends danger, to that ſide let 'him extend his troops, and let him always conceal himſelf in the 'midſt of a ſquadron formed like a lotos flower.

189. 'Let him cauſe his generals and the chief commander *under* '*himſelf* to act in all quarters; and from whatever ſide he perceives a 'deſign of attacking him, to that ſide let him turn his front.

190. 'On all ſides let him ſtation troops of ſoldiers, in whom he 'confides, diſtinguiſhed by known *colours and other* marks; who are 'excellent both in ſuſtaining a charge and in charging, who are fear-'leſs and incapable of deſertion.

191. 'Let

191. 'Let him at his pleaſure order a few men to engage in a cloſe 'phalanx, or a large number of warriors in looſe ranks; and, having 'formed them in *a long line like* a needle, or in *three diviſions like* a 'thunderbolt, let him give orders for battle.

192. 'On a plain, let him fight with his armed cars and horſes; on 'watery places, with manned boats and elephants; on ground full of 'trees and ſhrubs, with bows; on cleared ground, with ſwords and 'targets, and *other* weapons.

193. 'Men born in *Curucſhétra*, near *Indrapreſt'ha*, in *Matſya*, or '*Viráta*, in *Panchála* or *Cányacubja*, and in *Súraſéna*, in the diſtrict 'of *Mat'hurà*, let him cauſe to engage in the van; and men, *born in* '*other countries*, who are tall and light.

194. 'Let him, when he has formed his troops in array, encourage 'them *with ſhort animated ſpeeches*; and then, let him try them com-'pletely: let him know likewiſe, how his men ſeverally exert them-'ſelves, while they charge the foe.

195. 'If he block up his enemy, let him ſit encamped, and lay 'waſte the hoſtile country; let him continually ſpoil the graſs, water, 'and wood of the adverſe prince.

196. 'Pools, wells, and trenches let him deſtroy: let him haraſs 'the foe by day, and alarm him by night.

197. 'Let him ſecretly bring over to his party all ſuch *leaders* as he 'can ſafely bring over; let him be informed of all, that his enemies

'are

'are doing; and, when a fortunate moment is offered by heaven, let 'him give battle, pushing on to conquest and abandoning fear:

198. 'Yet he should be more sedulous to reduce his enemy by nego-'tiation, by well applied gifts, and by creating divisions, using either 'all or some of those methods, than by hazarding at any time a deci-'sive action,

199. 'Since victory or defeat are not surely foreseen on either side, 'when two armies engage in the field: let the king then, *if other ex-'pedients prevail*, avoid a pitched battle;

200. 'But, should there be no means of applying the three *before-'mentioned* expedients, let him, after due preparation, fight so valiant-'ly, that his enemy may be totally routed.

201. 'HAVING conquered a country, let him respect the deities 'adored in it, and their virtuous priests; let him also distribute lar-'gesses *to the people*, and cause a full exemption from terrour to be 'loudly proclaimed.

202. 'When he has perfectly ascertained the conduct and intentions 'of all the vanquished, let him fix in that country a prince of the royal 'race, and give him precise instructions.

203. 'Let him establish the laws of the conquered nation as declared '*in their books*; and let him gratify the new prince with gems *and 'other precious gifts*.

204. 'The

204. 'The ſeizure of deſirable property, though it cauſe hatred, 'and the donation of it, though it cauſe love, may be laudable or 'blameable on different occaſions:

205. 'All this *conduct of human affairs* is conſidered as dependent on 'acts aſcribed to the deity, and on acts aſcribed to men; now the 'operations of the deity cannot be known by any intenſeneſs of 'thought, but thoſe of men may be clearly diſcovered.

206. 'Or the victor, conſidering an ally, territory, and wealth as 'the triple fruit of conqueſt, may form an alliance with the van-'quiſhed prince, and proceed in union with him, uſing diligent cir-'cumſpection.

207. 'He ſhould pay due attention to the prince, who ſupport-'ed his cauſe, and to any other prince in the circumjacent re-'gion, who checked that ſupporter, ſo that, both from a well-'wiſher and from an opponent, he may ſecure the fruit of his ex-'pedition.

208. 'By gaining wealth and territory a king acquires not ſo great 'an increaſe of ſtrength, as by obtaining a firm ally, who, though 'weak, may hereafter be powerful.

209. 'That ally, though feeble, is highly eſtimable, who knows 'the whole extent of his duties, who gratefully remembers benefits, 'whoſe people are ſatisfied, *or, who has a gentle nature,* who loves his 'friend, and perſeveres in his good reſolutions.

210. 'Him

210. ' Him have the ſages declared an enemy hard to be ſubdued, ' who is eminently learned, of a noble race, perſonally brave, dextrous ' in management, liberal, grateful, and firm.

211. ' Goodnature, knowledge of mankind, valour, benignity of ' heart, and inceſſant liberality, are the aſſemblage of virtues, which ' adorn a neutral prince, *whoſe amity muſt be courted.*

212. ' Even a ſalubrious and fertile country, where cattle continually ' increaſe, let a king abandon without heſitation for the ſake of pre-' ſerving himſelf:

213. ' Againſt misfortune, let him preſerve his wealth; at the ex-' pence of his wealth, let him preſerve his wife; but let him at all ' events preſerve himſelf even at the hazard of his wife and his riches.

214. ' A wiſe prince, who finds every ſort of calamity ruſhing ' violently upon him, ſhould have recourſe to all juſt expedients, united ' or ſeparate:

215. ' Let him conſider the buſineſs to be expedited, the expedients ' collectively, and himſelf who muſt apply them; and, taking refuge ' completely in thoſe three, let him ſtrenuouſly labour for his own ' proſperity.

216. ' Having conſulted with his miniſters, in the manner before ' preſcribed, on all this *maſs of publick affairs*; having uſed exerciſe *be-' coming a warriour*, and having bathed *after it*, let the king enter at ' noon his private apartments for the purpoſe of taking food.

217. ' There

217. ‘ There let him eat lawful aliment, prepared by ſervants
‘ attached to his perſon, who know the difference of times and are
‘ incapable of perfidy, after it has been proved innocent *by certain ex-*
‘ *periments*, and hallowed by texts of the *Véda* repulſive of poiſon.

218. ‘ Together with all his food let him ſwallow ſuch medical ſub-
‘ ſtances as reſiſt venom; and let him conſtantly wear with attention
‘ ſuch gems, as are known to repel it.

219. ‘ Let his females, well tried and attentive, their dreſs and or-
‘ naments having been examined, *leſt ſome weapon ſhould be concealed in*
‘ *them*, do him humble ſervice with fans, water, and perfumes:

220. ‘ Thus let him take diligent care, when he goes out in a car-
‘ riage or on horſeback, when he lies down to reſt, when he ſits, when
‘ he takes food, when he bathes, anoints his body *with odorous eſſences*,
‘ and puts on all his habiliments.

221. ‘ After eating, let him divert himſelf with his women in the
‘ receſſes of his palace; and, having idled a reaſonable time, let him
‘ again think of publick affairs:

222. ‘ When he has dreſſed himſelf completely, let him once more
‘ review his armed men, with all their elephants, horſes, and cars,
‘ their accoutrements, and weapons.

223. ‘ At ſunſet, having performed his religious duty, let him pri-
‘ vately, but well armed, in his interior apartment, hear what has
‘ been done by his reporters and emiſſaries:

224. ‘ Then,

224. 'Then, having diſmiſſed thoſe informers, and returning to
'another ſecret chamber, let him go, attended by women, to the in-
'moſt receſs of his manſion for the ſake of his evening meal;

225. 'There, having a ſecond time eaten a little, and having been
'recreated with muſical ſtrains, let him take reſt early, and riſe re-
'freſhed from his labour.

226. 'THIS perfect ſyſtem of rules let a king, free from illneſs, ob-
'ſerve; but, when really afflicted with diſeaſe, he may intruſt all theſe
'affairs to his officers.'

CHAPTER THE EIGHTH.

On Judicature; and on Law, Private and Criminal.

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1. 'A KING, desirous of inspecting judicial proceedings, must enter 'his court of justice, composed and sedate in his demeanour, together 'with *Bráhmens* and counsellors, who know how to give him advice:

2. 'There, either sitting or standing, holding forth his right arm, 'without ostentation in his dress and ornaments, let him examine the 'affairs of litigant parties.

3. 'Each day let him decide causes, one after another, under the 'eighteen *principal* titles of law, by arguments and rules drawn from 'local usages, and from written codes:

4. 'Of those *titles*, the first is debt, on loans for consumption; *the* '*second*, deposits, and loans for use; *the third*, sale without owner- 'ship; *the fourth*, concerns among partners; *the fifth*, subtraction of 'what has been given;

5. '*The sixth*, nonpayment of wages or hire; *the seventh*, nonper- 'formance of agreements; *the eighth*, rescission of sale and purchase; '*the ninth*, disputes between master and servant;

6. '*The*

6. ' *The tenth*, contests on boundaries; *the eleventh and twelfth*, as-
' sault and slander; *the thirteenth*, larceny; *the fourteenth*, robbery and
' other violence; *the fifteenth*, adultery;

7. ' *The sixteenth*, altercation between man and wife, and their se-
' veral duties; *the seventeenth*, the law of inheritance; *the eighteenth*,
' gaming with dice and with living creatures: these eighteen titles of
' law are settled as the groundwork of all judicial procedure in this
' world.

8. ' Among men, who contend for the most part on the titles just
' mentioned, *and on a few miscellaneous heads not comprised under them*,
' let the king decide causes justly, observing primeval law;

9. ' But, when he cannot inspect such affairs in person, let him
' appoint, for the inspection of them, a *Bráhmen* of eminent learn-
' ing:

10. ' Let that chief judge, accompanied by three assessors, fully
' consider all causes brought before the king, and, having entered the
' courtroom, let him sit or stand, *but not move backwards and for-*
' *wards.*

11. ' In whatever country three *Bráhmens*, particularly skilled in the
' three several *Védas*, sit together with the very learned *Bráhmen* ap-
' pointed by the king, the wise call that *assembly* the court of BRAHMA'
' *with four faces*.

12. ' WHEN justice, having been wounded by iniquity, approaches
' the court, and the judges extract not the dart, they also shall be
' wounded by it.

13. ' Either

13. ‘ Either the court muſt not be entered *by judges, parties, and wit-*
‘ *neſſes*, or law and truth muſt be openly declared: that man is crimi-
‘ nal, who either ſays nothing, or ſays what is falſe or unjuſt.

14. ‘ Where juſtice is deſtroyed by iniquity, and truth by falſe
‘ evidence, the judges, who baſely look on *without giving redreſs*, ſhall
‘ alſo be deſtroyed.

15. ‘ Juſtice, being deſtroyed, will deſtroy; being preſerved, will
‘ preſerve: it muſt never, therefore, be violated. “ Beware, *O judge*,
“ leſt juſtice, being overturned, overturn *both* us *and thyſelf*.”

16. ‘ The divine form of juſtice is repreſented as *Vriſha*, or *a bull*,
‘ and the gods conſider him, who violates juſtice, as a *Vriſhala*, or one
‘ who ſlays a bull: let the king, therefore, and his judges beware of
‘ violating juſtice.

17. ‘ The only firm friend, who follows men even after death, is
‘ juſtice: all others are extinct with the body.

18. ‘ Of injuſtice *in deciſions*, one quarter falls on the party in the
‘ cauſe; one quarter, on his witneſſes; one quarter, on all the judges;
‘ and one quarter on the king;

19. ‘ But where he, who deſerves condemnation, ſhall be condemned,
‘ the king is guiltleſs, and the judges free from blame: an evil deed
‘ ſhall recoil on him, who committed it.

20. ‘ A *Bráhmen* ſupported only by his claſs, and one barely reputed
‘ a *Bráhmen*, but without performing any ſacerdotal acts, may, at the
‘ king's

'king's pleaſure, interpret the law to him: *ſo may the two middle claſſes*; 'but a *Súdra*, in no caſe whatever.

21. 'Of that king, who ſtupidly looks on, while a *Súdra* decides 'cauſes, the kingdom itſelf ſhall be embarraſſed, like a cow in deep 'mire.

22. 'The whole territory, which is inhabited by a number of *Sú-'dras*, overwhelmed with atheiſts, and deprived of *Bráhmens*, muſt 'ſpeedily periſh afflicted with dearth and diſeaſe.

23. 'Let the king *or his judge*, having ſeated himſelf on the bench, 'his body properly clothed and his mind attentively fixed, begin with 'doing reverence to the deities, who guard the world; and then let 'him enter on the trial of cauſes:

24. 'Underſtanding what is expedient or inexpedient, but conſider-'ing only what is law or not law, let him examine all diſputes be-'tween parties, in the order of their ſeveral claſſes.

25. 'By external ſigns let him ſee through the thoughts of 'men; by their voice, colour, countenance, limbs, eyes, and ac-'tion:

26. 'From the limbs, the look, the motion of the body, the geſticu-'lation, the ſpeech, the changes of the eye and the face, are diſcovered 'the internal workings of the mind.

27. 'The property of a ſtudent and of an infant, whether by deſcent 'or otherwiſe, let the king hold in his cuſtody, until the owner ſhall 'have

'have ended his ſtudentſhip, or until his infancy ſhall have ceaſed *in* '*his ſixteenth year*:

28. 'Equal care muſt be taken of barren women, of women with- 'out ſons, *whoſe huſbands have married other wives*, of women without 'kindred, or whoſe huſbands are in diſtant places, of widows true 'to their lords, and of women afflicted with illneſs.

29. 'Such kinſmen, as, *by any pretence*, appropriate the fortunes of 'women during their lives, a juſt king muſt puniſh with the ſeverity 'due to thieves.

30. 'Three years let the king detain the property of which no owner 'appears, *after a diſtinct proclamation*: the owner, appearing within the 'three years, may take it; but, after that term, the king may confiſ- 'cate it.

31. 'He, who ſays "This is mine," muſt be duly examined; and 'if, *before he inſpect it*, he declare its form, number, and other circum- 'ſtances, the owner muſt have his property;

32. 'But, if he ſhow not at what place and time it was loſt, and ſpe- 'cify not its colour, ſhape, and dimenſions, he ought to be amerced:

33. 'The king may take a ſixth part of the property ſo detained 'by him, or a tenth, or a twelfth, remembering the duty of good 'kings.

34. 'Property loſt *by one man*, and found *by another*, let the king ſe- 'cure, by committing it to the care of truſtworthy men; and thoſe,

'whom

'whom he ſhall convict of ſtealing it, let him cauſe to be trampled on 'by an elephant.

35. 'From the man, who ſhall ſay with truth, "This property, "which has been kept, belongs to me," the king may take a ſixth or 'twelfth part, *for having ſecured it*;

36. 'But he, who ſhall ſay ſo falſely, may be fined either an eighth 'part of his own property, or elſe in ſome ſmall proportion to the 'value of the goods falſely claimed, a juſt calculation having been 'made.

37. 'A learned *Bráhmen*, having found a treaſure formerly hid-'den, may take it without any deduction; ſince he is the lord of 'all;

38. 'But of a treaſure anciently repoſited under ground, which *any* '*other ſubject or* the king has diſcovered, the king may lay up half in 'his treaſury, having given half to the *Bráhmens*.

39. 'Of old hoards, and precious minerals in the earth, the king is 'entitled to half by reaſon of his general protection, and becauſe he is 'the lord paramount of the ſoil.

40. 'To men of all claſſes, the king muſt reſtore their property, 'which robbers have ſeized; ſince a king, who takes it for himſelf, 'incurs the guilt of a robber.

41. 'A king, who knows the revealed law, muſt enquire into the 'particular laws of claſſes, the laws *or uſages* of diſtricts, the cuſtoms 'of

'of traders, and the rules of certain families, and eſtabliſh their pecu-
'liar laws, *if they be not repugnant to the law of* GOD;

42. 'Since all men, who mind their own cuſtomary ways of proceeding, and are fixed in the diſcharge of their ſeveral duties, become united by affection with the people at large, even though they dwell far aſunder.

43. 'Neither the king himſelf nor his officers muſt ever promote litigation; nor ever neglect a lawſuit inſtituted by others.

44. 'As a hunter traces the lair of a *wounded* beaſt by the drops of blood; thus let a king inveſtigate the true point of juſtice by deliberate arguments:

45. 'Let him fully conſider the nature of truth, the ſtate of the caſe, and his own perſon; and, next, the witneſſes, the place, the mode, and the time; firmly adhering to all the rules of practice:

46. 'What has been practiſed by good men and by virtuous *Bráhmens*, if it be not inconſiſtent with the legal cuſtoms of provinces or diſtricts, of claſſes and families, let him eſtabliſh.

47. 'WHEN a creditor ſues before him for the recovery of his right from a debtor, let him cauſe the debtor to pay what the creditor ſhall prove due.

48. 'By whatever lawful means a creditor may have gotten poſſeſſion of his own property, let the king ratify ſuch payment by the debtor, though obtained even by compulſory means:

49. 'By

49. ‘ By the mediation of friends, by ſuit in court, by artful ma-
‘ nagement, or by diſtreſs, a creditor may recover the property lent;
‘ and, fifthly, by legal force.

50. ‘ That creditor, who recovers his right from his debtor, muſt
‘ not be rebuked by the king for retaking his own property.

51. ‘ In a ſuit for a debt, which the defendant denies, let him award
‘ payment to the creditor of what, by good evidence, he ſhall prove
‘ due, and exact a ſmall fine, *according to the circumſtances of the*
‘ *debtor*.

52. ‘ On the denial of a debt, which the defendant has in court been
‘ required to pay, the plaintiff muſt call a witneſs who was preſent at
‘ the place of the loan, or produce other evidence, *as a note and the*
‘ *like*.

53. ‘ The plaintiff, who calls a witneſs not preſent at the place,
‘ *where the contract was made*, or, having knowingly called him, diſ-
‘ claims him as his witneſs; or who perceives not, that he aſſerts con-
‘ fuſed and contradictory facts;

54. ‘ Or who, having ſtated what he deſigns to prove, varies
‘ afterwards from his caſe; or who, being queſtioned on a fact,
‘ which he had before admitted, refuſes to acknowledge that very
‘ fact;

55. ‘ Or who has converſed with the witneſſes in a place unfit for
‘ ſuch converſation; or who declines anſwering a queſtion properly
‘ put; or who departs from the court;

56. ‘ Or

56. ‘ Or who, being ordered to ſpeak, ſtands mute; or who proves ‘ not what he has alledged; or who knows not what is capable or in‘ capable of proof; *ſuch a plaintiff* ſhall fail in that ſuit.

57. ‘ Him, who has ſaid, “ I have witneſſes,” and, being told to pro‘ duce them, produces them not, the judge muſt on this account ‘ declare nonſuited.

58. ‘ If the plaintiff delay to put in his plaint, he may, *according to the* ‘ *nature of the caſe*, be corporally puniſhed or juſtly amerced; and, if the ‘ defendant plead not within three fortnights, he is by law condemned.

59. ‘ In the double of that ſum, which the defendant falſely denies, ‘ or on which the complainant falſely declares, ſhall thoſe two men, ‘ wilfully offending againſt juſtice, be fined by the king.

60. ‘ When a man has been brought into court by a ſuitor for pro‘ perty, and, being called on to anſwer, denies the debt, the cauſe ‘ ſhould be decided by the *Bráhmen* who repreſents the king, having ‘ heard three witneſſes at leaſt.

61. ‘ WHAT ſort of witneſſes muſt be produced by creditors *and* ‘ *others* on the trial of cauſes, I will comprehenſively declare; and in ‘ what manner thoſe witneſſes muſt give true evidence.

62. ‘ Married houſekeepers, men with male iſſue, inhabitants of ‘ the ſame diſtrict, either of the military, the commercial, or the ſer‘ vile claſs, are competent, when called by the party, to give their ‘ evidence; not any perſons indiſcriminately, except in *ſuch* caſes of ‘ urgency *as will ſoon be mentioned.*

63. ‘ Juſt

63. 'Juſt and ſenſible men of all the *four* claſſes may be witneſſes 'on trials; men, who know their whole duty, and are free from 'covetouſneſs: but men of an oppoſite character the judge muſt 'reject.

64. 'Thoſe muſt not be admitted who have a pecuniary intereſt; 'nor familiar friends; nor menial ſervants; nor enemies; nor men 'formerly perjured; nor perſons grievouſly diſeaſed; nor thoſe, who 'have committed heinous offences.

65. 'The king cannot be made a witneſs; nor *cooks*, *and the like* 'mean artificers; nor publick dancers and ſingers; nor a prieſt of 'deep learning in ſcripture; nor a ſtudent in theology; nor an an-'choret ſecluded from all worldly connexions;

66. 'Nor one wholly dependent; nor one of bad fame; nor one, 'who follows a cruel occupation; nor one, who acts openly againſt the 'law; nor a decrepit old man; nor a child; nor one man only, *unleſs 'he be diſtinguiſhed for virtue*; nor a wretch of the loweſt mixed claſs; 'nor one, who has loſt the organs of ſenſe;

67. 'Nor one extremely grieved; nor one intoxicated; nor a mad-'man; nor one tormented with hunger or thirſt; nor one oppreſſed 'by fatigue; nor one excited by luſt; nor one inflamed by wrath; 'nor one who has been convicted of theft.

68. 'Women ſhould regularly be witneſſes for women; twiceborn 'men, for men alike twiceborn; good ſervants and mechanicks, for 'ſervants and mechanicks; and thoſe of the loweſt race, for thoſe of 'the loweſt;

69. 'But

69. ‘ But any perſon whatever, who has poſitive knowledge *of tranſ-*
‘ *actions* in the private apartments of a houſe, or in a foreſt, or at a
‘ time of death, may give evidence between the parties:

70. ‘ On failure *of witneſſes duly qualified*, evidence may *in ſuch caſes*
‘ be given by a woman, by a child, or by an aged man, by a pupil, by
‘ a kinſman, by a ſlave, or by a hired ſervant;

71. ‘ Yet of children, of old men, and of the diſeaſed, who are all
‘ apt to ſpeak untruly, the judge muſt conſider the teſtimony as weak;
‘ and, *much more*, that of men with diſordered minds:

72. ‘ In all caſes of violence, of theft and adultery, of defamation
‘ and aſſault, he muſt not examine too ſtrictly the competence of wit-
‘ neſſes.

73. ‘ If there be contradictory evidence, let the king decide by the
‘ plurality of credible witneſſes; if equality in number, by ſuperiority
‘ in virtue; if parity in virtue, by the teſtimony of ſuch twiceborn
‘ men, as have beſt performed publick duties.

74. ‘ Evidence of what has been ſeen, or of what has been heard, *as*
‘ *ſlander and the like*, given by thoſe who ſaw or heard it, is admiſſible;
‘ and a witneſs, who ſpeaks truth in thoſe caſes, neither deviates from
‘ virtue nor loſes his wealth:

75. ‘ But a witneſs, who knowingly ſays any thing, before an aſſembly
‘ of good men, different from what he had ſeen or heard, ſhall fall
‘ headlong, after death, into a region of horrour, and be debarred from
‘ heaven.

76. ‘ When

76. 'When a man ſees or hears any thing, without being then call-
'ed upon to atteſt it, yet, if he be *afterwards* examined as a witneſs,
'he muſt declare it, exactly as *it was* ſeen, *and* as *it was* heard.

77. 'One man, untainted with covetouſneſs *and other vices*, may *in
'ſome caſes* be the ſole witneſs, and will have more weight than many
'women, becauſe female underſtandings are apt to waver; or than
'many other men, who have been tarniſhed with crimes.

78. 'What witneſſes declare naturally, *or without bias*, muſt be re-
'ceived on trials; but what they improperly ſay, from ſome unnatural
'bent, is inapplicable to the purpoſes of juſtice.

79. 'THE witneſſes being aſſembled in the middle of the courtroom,
'in the preſence of the plaintiff and the defendant, let the judge ex-
'amine them, after having addreſſed them *all together* in the following
'manner:

80. "What ye know to have been tranſacted in the matter before
"us, between the parties reciprocally, declare at large and with truth;
"for your evidence in this cauſe is required."

81. 'A witneſs, who gives teſtimony with truth, ſhall attain exalted
'ſeats of beatitude above, and the higheſt fame here below: ſuch
'teſtimony is revered by BRAHMA' himſelf.

82. 'The witneſs, who ſpeaks falſely, ſhall be faſt bound *under
'water*, in the *ſnaky* cords of VARUNA, and be wholly deprived of
'power *to eſcape torment* during a hundred tranſmigrations: let man-
'kind, therefore, give no falſe teſtimony.

83. 'By

83. 'By truth is a witneſs cleared from ſin; by truth is juſtice ad-
'vanced: truth muſt, therefore, be ſpoken by witneſſes of every claſs.

84. 'The ſoul itſelf is its own witneſs; the ſoul itſelf is its own re-
'fuge: offend not thy conſcious ſoul, the ſupreme internal witneſs of
'men!

85. 'The ſinful have ſaid in their hearts: "None ſees us." Yes;
'the gods diſtinctly ſee them; and ſo does the ſpirit within their
'breaſts.

86. 'The guardian deities of the firmament, of the earth, of the
'waters, of the human heart, of the moon, of the ſun, and of fire,
'of puniſhment after death, of the winds, of night, of both twilights,
'and of juſtice, perfectly know the ſtate of all ſpirits clothed with
'bodies.

87. 'In the forenoon let the judge, being purified, ſeverally call on
'the twiceborn, being purified alſo, to declare the truth, in the preſence
'of *ſome image a ſymbol* of the divinity, and of *Bráhmens*, while the
'witneſſes turn their faces either to the north or to the eaſt.

88. 'To a *Bráhmen* he muſt begin with ſaying, "Declare;" to a
'*Cſhatriya*, with ſaying "Declare the truth;" to a *Vaiſya*, with com-
'paring perjury to the crime of ſtealing kine, grain, or gold; to a
'*Súdra*, with comparing it *in ſome or all of the following ſentences*, to
'every crime, that men can commit.

89. "WHATEVER places of torture have been prepared for the ſlayer
"of a prieſt, for the murderer of a woman or of a child, for the injurer
"of

" of a friend, and for an ungrateful man, thoſe places are ordained for " a witneſs, who gives falſe evidence.

90. " The fruit of every virtuous act, which thou haſt done, O good " man, ſince thy birth, ſhall depart from thee to dogs, if thou deviate " in ſpeech from the truth.

91. " O friend to virtue, that ſupreme ſpirit, which thou believeſt " one and the ſame with thyſelf, reſides in thy boſom perpetually, " and is an allknowing inſpector of thy goodneſs or of thy wicked- " neſs.

92. " If thou beeſt not at variance, *by ſpeaking falſely*, with YAMA, " or the ſubduer of all, with VAIVASWATA, or the puniſher, with " that great divinity, who dwells in thy breaſt, go not *on a pilgrimage* " to the river *Gangà*, nor to the plains of CURU, *for thou haſt no need* " *of expiation*.

93. " Naked and ſhorn, tormented with hunger and thirſt, and de- " prived of ſight, ſhall the man, who gives falſe evidence, go with a " potſherd to beg food at the door of his enemy.

94. " Headlong, in utter darkneſs, ſhall the impious wretch tumble " into hell, who, being interrogated in a judicial inquiry, anſwers one " queſtion falſely.

95. " He, who in a court of juſtice gives an imperfect account of " any tranſaction, or aſſerts a fact of which he was no eyewitneſs, " ſhall receive pain *inſtead of pleaſure*, and reſemble a man, who eats " fiſh *with eagerneſs* and ſwallows the ſharp bones.

96. " The

96. " The gods are acquainted with no better mortal in this world,
" than the man, of whom the intelligent ſpirit, which pervades his
" body, has no diſtruſt, when he prepares to gives evidence.

97. " Hear, honeſt man, from a juſt enumeration in order, how
" many kinſmen, in evidence of different ſorts, a falſe witneſs kills,
" *or incurs the guilt of killing:*

98. " He kills five by falſe teſtimony concerning cattle in general;
" he kills ten by falſe teſtimony concerning kine; he kills a hundred
" by falſe evidence concerning horſes, and a thouſand by falſe evi-
" dence concerning the human race:

99. " By ſpeaking falſely in a cauſe concerning gold, he kills the
" born and the unborn; by ſpeaking falſely concerning land, he kills
" every thing animated: beware then of ſpeaking falſely in a cauſe
" concerning land!

100. " The ſages have held falſe evidence concerning water, and
" the poſſeſſion or enjoyment of women, equal to falſe evidence con-
" cerning land; and it is equally criminal in cauſes concerning *pearls*
" *and other* precious things formed in water, and concerning all things
" made of ſtone.

101. " Marking well all the murders, which are comprehended in
" the crime of perjury, declare thou the whole truth with preciſion,
" as *it was* heard, *and* as *it was* ſeen by thee."

102. ' *Bráhmens,* who tend herds of cattle, who trade, who practiſe
' mechanical arts, who profeſs dancing and ſinging, who are hired
' ſervants

'ſervants or uſurers, let the judge exhort and examine as if they were 'Súdras.

103. 'In ſome caſes, a giver of falſe evidence from a pious motive, 'even though he know the truth, ſhall not loſe a ſeat in heaven: ſuch 'evidence wiſe men call the ſpeech of the gods.

104. 'Whenever the death of a man, *who had not been a grievous 'offender*, either of the ſervile, the commercial, the military, or the 'ſacerdotal, claſs, would be occaſioned by true evidence, *from the known 'rigour of the king, even though the fault aroſe from inadvertence or 'errour*, falſehood may be ſpoken: it is even preferable to truth.

105. 'Such *witneſſes* muſt offer, as oblations to SARASWATI', cakes 'of rice and milk addreſſed to the goddeſs of ſpeech; and thus will 'they fully expiate that venial ſin of benevolent falſehood:

106. 'Or ſuch a *witneſs* may pour clarified butter into the holy fire, 'according to the ſacred rule, hallowing it with the texts called *cúſh-'mándá*, or with thoſe which relate to VARUNA, beginning with *ud*; 'or with the three texts appropriated to the water-gods.

107. 'A MAN, who labours not under illneſs, yet comes not to give 'evidence in caſes of loans and the like, within three fortnights *after 'due ſummons*, ſhall take upon himſelf the whole debt, and pay a tenth 'part of it as a fine *to the king*.

108. 'The witneſs, who has given evidence, and to whom, within 'ſeven days after, *a misfortune* happens *from* diſeaſe, fire, or the death 'of a kinſman, ſhall be condemned to pay the debt and a fine.

109. 'In

109. 'In caſes, where no witneſs can be had, between two parties
'oppoſing each other, the judge may acquire a knowledge of the
'truth by the oath of the parties; *or* if he cannot *otherwiſe* perfectly
'aſcertain it.

110. 'By the *ſeven* great *Rĭſhis*, and by the deities themſelves, have
'oaths been taken for the purpoſe of judicial proof; and even VASI-
'SHT'HA, *being accuſed by* VISWA'MITRA *of murder*, took an oath be-
'fore the *king* SUDA'MAN, ſon of PIYAVANA.

111. 'Let no man of ſenſe take an oath in vain, *that is, not in a*
'*court of juſtice*, on a trifling occaſion; for the man, who takes an
'oath in vain, ſhall be puniſhed in this life and in the next:

112. 'To women, however, at a time of dalliance, or on a propoſal
'of marriage, in the caſe of graſs or fruit eaten by a cow, of wood
'taken for a ſacrifice, or of a promiſe made for the preſervation of a
'*Bráhmen*, it is no deadly ſin to take a light oath.

113. 'Let the judge cauſe a prieſt to ſwear by his veracity; a ſol-
'dier, by his horſe, or elephant, and his weapons; a merchant, by his
'kine, grain, and gold; a mechanick or ſervile man, by *imprecating*
'*on his own head, if he ſpeak falſely*, all poſſible crimes;

114. 'Or, *on great occaſions*, let him cauſe the party to hold fire, or
'to dive under water, or ſeverally to touch the heads of his children
'and wife:

115. 'He, whom the blazing fire burns not, whom the water ſoon
'forces not up, or who meets with no ſpeedy misfortune, muſt be held
'veracious in his teſtimony on oath.

116. 'Of

116. 'Of the ſage VATSA, whom his younger *half* brother formerly 'attacked, *as the ſon of a ſervile woman*, the fire, which pervades the 'world, burned not even a hair, by reaſon of his perfect veracity.

117. 'WHENEVER falſe evidence has been given in any ſuit, the 'king muſt reverſe the judgment; and whatever has been done, muſt 'be conſidered as undone.

118. 'Evidence, given from covetouſneſs, from diſtraction of mind, 'from terrour, from friendſhip, from luſt, from wrath, from igno-'rance, and from inattention, muſt be held invalid.

119. 'THE diſtinctions of puniſhment for a falſe witneſs, from either 'of thoſe motives, I will now propound fully and in order:

120. 'If he ſpeak falſely through covetouſneſs, he ſhall be fined a 'thouſand *panas*; if through diſtraction of mind, *two hundred and* '*fifty*, *or* the loweſt amercement; if through terrour, two mean 'amercements; if through friendſhip, four times the loweſt;

121. 'If through luſt, ten times the loweſt amercement; if through 'wrath, three times the next, *or middlemoſt*; if through ignorance, two 'hundred complete; if, through inattention, a hundred only.

122. 'Learned men have ſpecified theſe puniſhments, *which were* or-'dained by ſage legiſlators for perjured witneſſes, with a view to pre-'vent a failure of juſtice and to reſtrain iniquity.

123. 'Let a juſt prince baniſh men of the three *lower* claſſes, if 'they give falſe evidence, having firſt levied the fine; but a *Bráhmen* 'let him only baniſh.

124. 'MENU,

124. ‘ Menu, ſon of the Selfexiſtent, has named ten places of ‘ puniſhment, which are appropriated to the three *lower* claſſes; but a ‘ *Bráhmen* muſt depart from the realm unhurt *in any one of them:*

125. ‘ The part of generation, the belly, the tongue, the two hands, ‘ and, fifthly, the two feet, the eye, the noſe, both ears, the property, ‘ and, *in a capital caſe*, the whole body.

126. ‘ Let the king, having conſidered and aſcertained the frequency ‘ of a ſimilar offence, the place and time, the ability of the criminal ‘ *to pay or ſuffer*, and the crime itſelf, cauſe puniſhment to fall on ‘ thoſe alone, who deſerve it.

127. ‘ Unjuſt puniſhment deſtroys reputation during life, and fame ‘ after death; it even obſtructs, in the next life, the path to heaven: ‘ unjuſt puniſhment, therefore, let the king by all means avoid.

128. ‘ A king, who inflicts puniſhment on ſuch as deſerve it not, and ‘ inflicts no puniſhment on ſuch as deſerve it, brings infamy on him‘ ſelf, while he lives, and ſhall ſink, when he dies, to a region of tor‘ ment.

129. ‘ Firſt, let him puniſh by gentle admonition; afterwards, by ‘ harſh reproof; thirdly, by deprivation of property; after that, by ‘ corporal pain:

130. ‘ But, when even by corporal puniſhment he cannot reſtrain ‘ ſuch offenders, let him apply to them all the four modes with ri‘ gour.

131. ‘ Those

131. 'Those names of copper, silver, and gold weights, which are
'commonly used among men, for the purpose of worldly business, I
'will now comprehensively explain.

132. 'The very small mote, which may be discerned in a sunbeam
'passing through a lattice, is the least visible quantity, and men call it
'a *trasarénu*:

133. 'Eight of those *trasarénus* are supposed equal in weight to
'one minute poppyseed; three of those seeds are equal to one black
'mustardseed; and three of those last, to a white mustardseed:

134. 'Six white mustardseeds are equal to a middle sized barley-
'corn; three such barleycorns to one *racticà*, or seed of the *Gunjà*;
'five *racticas* of gold are one *másha*, and sixteen such *máshas*, one
'*suverna*;

135. 'Four *suvernas* make a *pala*; ten *palas*, a *dharana*; but two
'*racticas* of silver, weighed together, are considered as one *máshaca*;

136. 'Sixteen of those *máshacas* are a silver *dharana*, or *purána*; but
'a *carsha*, or eighty *racticas*, of copper, is called a *pana* or *cárshápana*.

137. 'Ten *dharanas* of silver are known by the name of a *satamána*;
'and the weight of four *suvernas* has also the appellation of a *nishca*.

138. 'Now two hundred and fifty *panas* are declared to be the first *or*
'*lowest* amercement; five hundred of them are considered as the mean;
'and a thousand, as the highest.

139. 'A

139. 'A DEBT being admitted by the defendant, he muſt pay five 'in the hundred, *as a fine to the king*; but, if it be denied *and proved*, 'twice as much: this law was enacted by MENU.

140. 'A LENDER of money may take, in addition to his capital, the 'intereſt allowed by VASISHT'HA, *that is*, an eightieth part of a hun- 'dred, *or one and a quarter*, by the month, *if he have a pledge*;

141. 'Or, *if he have no pledge*, he may take two in the hundred *by 'the month*, remembering the duty of good men: for, by *thus* taking 'two in the hundred, he becomes not a ſinner for gain.

142. 'He may thus take, *in proportion to the riſk, and* in the direct 'order of the claſſes, two in the hundred *from a prieſt*, three *from a 'ſoldier*, four *from a merchant*, and five *from a mechanick or ſervile 'man*, but never more, as intereſt by the month.

143. 'If he take a beneficial pledge, *or a pledge to be uſed for his 'profit*, he muſt have no other intereſt on the loan; nor, after a great 'length of time, *or when the profits have amounted to the debt*, can he 'give or ſell ſuch a pledge, *though he may aſſign it in pledge to another*.

144. 'A pledge *to be kept only* muſt not be uſed by force, *that is 'againſt conſent*: the pawnee ſo uſing it muſt give up his whole intereſt, 'or muſt ſatisfy the pawner, *if it be ſpoiled or worn out*, by paying him 'the original price of it; otherwiſe, he commits a theft of the pawn.

145. 'Neither a pledge *without limit*, nor a depoſit, are loſt to the 'owner by lapſe of time: they are both recoverable, though they have 'long remained with the bailee.

146. ‘ A milch cow, a camel, a riding horſe, *a bull or other beaſt*, ‘ which has been ſent to be tamed for labour, and other things uſed ‘ with friendly aſſent, are not loſt, *by length of time* to the owner.

147. ‘ *In general*, whatever chattel the owner ſees enjoyed by others ‘ for ten years, while, though preſent, he ſays nothing, that chattel ‘ he ſhall not recover :

148. ‘ If he be neither an idiot, nor an infant under the full age of ‘ fifteen years, and if the chattel be adverſely poſſeſſed in a place, ‘ where he may ſee it, his property in it is extinct by law, and the ad- ‘ verſe poſſeſſor ſhall keep it.

149. ‘ A pledge, a boundary of land, the property of an infant, a ‘ depoſit either open or in a cheſt ſealed, female ſlaves, the wealth of ‘ a king, and of a learned *Bráhmen*, are not loſt in conſequence of ad- ‘ verſe enjoyment.

150. ‘ The fool, who ſecretly uſes a pledge without, *though not* ‘ *againſt*, the aſſent of the owner, ſhall give up half of his intereſt, as ‘ a compenſation for ſuch uſe.

151. ‘ Interest on money, received at once, *not month by month*, ‘ *or day by day, as it ought*, muſt never be more than enough to double ‘ the debt, *that is, more than the amount of the principal paid at the ſame* ‘ *time:* on grain, on fruit, on wool or hair, on beaſts of burden, *lent* ‘ *to be paid in the ſame kind of equal value*, it muſt not be more than ‘ enough to make the debt quintuple.

152. ‘ Stipulated intereſt beyond the legal rate, and different from ‘ the *preceding* rule, is invalid; and the wiſe call it an uſurous way

‘ *of*

‘ *of lending:* the lender is entitled *at most* to five in the hun-
‘ dred.

153. ‘ Let no lender *for a month, or for two or three months, at a certain* ‘ *interest*, receive *such* interest beyond the year; nor any interest, ‘ which is unapproved; nor interest upon interest *by previous agreement*; ‘ nor monthly interest exceeding in time the amount of the principal; ‘ nor interest exacted from a debtor *as the price of the risk, when there* ‘ *is no publick danger or distress*; nor immoderate profits from a pledge ‘ to be used by way of interest.

154. ‘ He, who cannot pay the debt *at the fixed time*, and wishes to ‘ renew the contract, may renew it in writing, *with the creditor's* ‘ *assent*, if he pay all the interest then due;

155. ‘ But if, *by some unavoidable accident*, he cannot pay the whole ‘ interest, he may insert *as principal* in the renewed contract so much ‘ of the interest accrued as he ought to pay.

156. ‘ A lender at interest on *the risk of* safe carriage, who has ‘ agreed on the place and time, shall not receive such interest, if *by* ‘ *accident* the goods are not carried to the place, or within the time:

157. ‘ Whatever interest, *or price of the risk*, shall be settled *between* ‘ *the parties*, by men well acquainted with sea voyages or journies by ‘ land, with times and with places, such interest shall have legal ‘ force.

158. ‘ THE man, who becomes surety for the appearance of a debtor ‘ in this world, and produces him not, shall pay the debt out of his ‘ own property;

159. 'But money, due by a ſurety, or idly promiſed *to muſicians and* '*actreſſes*, or loſt at play, or due for ſpirituous liquors, or what re- 'mains unpaid of a fine or toll, the ſon *of the ſurety or debtor* ſhall not '*in general* be obliged to pay:

160. 'Such is the rule in caſes of a ſurety for appearance *or good* '*behaviour*; but, if a ſurety for payment ſhould die, the judge may 'compel even his heirs to diſcharge the debt.

161. 'On what account then is it, that, after the death of a ſurety 'other than for payment, the creditor may *in one caſe* demand the 'debt *of the heir*, all the affairs of the deceaſed being known and 'proved?

162. 'If the ſurety had received money from the debtor, and had 'enough to pay the debt, the ſon of him, who ſo received it, ſhall 'diſcharge the debt out of his *inherited* property: this is a ſacred or- 'dinance.

163. 'A contract made by a perſon intoxicated or inſane, or griev- 'ouſly diſordered, or wholly dependent, by an infant or a decrepit old 'man, or *in the name of another* by a perſon without authority, is 'utterly null.

164. 'That plaint can have no effect, though it may be ſupported 'by evidence, which contains a cauſe of action inconſiſtent with poſi- 'tive law or with ſettled uſage.

165. 'When the judge diſcovers a fraudulent pledge or ſale, a 'fraudulent gift and acceptance, or in whatever other caſe he detects 'fraud, let him annul the whole tranſaction.

166. 'If

166. ‘If the debtor be dead, and if the money borrowed was expended for the uſe of his family, it muſt be paid by that family, divided or undivided, out of their own eſtate.

167. ‘Should even a ſlave make a contract *in the name of his abſent maſter* for the behoof of the family, that maſter, whether in his own country or abroad, ſhall not reſcind it.

168. ‘What is given by force *to a man who cannot accept it legally*, what is by force enjoyed, by force cauſed to be written, and all other things done by force *or againſt free conſent*, MENU has pronounced void.

169. ‘Three are troubled by means of others, *namely* witneſſes, ſureties, and inſpectors of cauſes, and four collect wealth ſlowly, with benefit to others, a *Bráhmen*, a moneylender, a merchant, and a king.

170. ‘Let no king, how indigent ſoever, take any thing, which ought not to be taken; nor let him, how wealthy ſoever, decline taking that, which he ought to take, be it ever ſo ſmall:

171. ‘By taking what ought not to be taken, and by refuſing what ought to be received, the king betrays his own weakneſs, and is loſt both in this world and in the next;

172. ‘But by taking his due, by adminiſtering juſtice, and by protecting the weak, the king augments his own force, and is exalted in the next world and in this.

173. ‘Therefore,

173. ' Therefore, let the king, like YAMA, reſigning what may be ' pleaſing or unpleaſing to himſelf, live by the ſtrict rules of YAMA, ' his anger being repreſſed, and his organs kept in ſubjection.

174. ' That evilminded king, who, through infatuation, decides ' cauſes with injuſtice, his enemies, *through the diſaffection of his people*, ' quickly reduce to a ſtate of dependence;

175. ' But him, who ſubduing both luſt and wrath, examines cauſes ' with juſtice, his people naturally ſeek, as rivers the ocean.

176. ' THE debtor, who complains before the king, that his creditor ' has recovered the debt by his own legal act, *as beforementioned*, ſhall ' be compelled by the king to pay a quarter of the ſum *as a fine*, and ' the creditor ſhall be left in poſſeſſion of his own.

177. ' Even by perſonal labour ſhall the debtor pay what is adjudged, ' if he be of the ſame claſs with the creditor, or of a lower; but a ' debtor of a higher claſs muſt pay it *according to his income* by little ' and little.

178. ' By this ſyſtem of rules let the king decide, with equal juſtice, ' all diſputes between men oppoſing each other, having aſcertained the ' truth by evidence or the oaths of the parties.

179. ' A SENSIBLE man ſhould make a depoſit with ſome perſon ' of high birth, and of good morals, well acquainted with law, ' habitually veracious, having a large family, wealthy and vene- ' rable.

180. ' Whatever

180. ' Whatever thing, and in whatever manner, a perſon ſhall de-
' poſit in the hands of another, the ſame thing, and in the ſame manner,
' ought to be received back by the owner : as the delivery *was*, ſo *muſt*
' *be* the receipt.

181. ' He, who reſtores not to the depoſitor, on his requeſt, what
' has been depoſited, may firſt be tried by the judge *in the following*
' *manner*, the depoſitor himſelf being abſent.

182. ' On failure of witneſſes, let the judge actually depoſit gold, *or*
' *precious things*, with the defendant by the artful contrivance of ſpies,
' who have paſſed the age of childhood, and whoſe perſons are en-
' gaging :

183. ' Should the defendant reſtore that depoſit in the manner and
' ſhape, in which it was bailed *by the ſpies*, there is nothing in his
' hands, for which others can juſtly accuſe him ;

184. ' But if he reſtore not the gold, or *precious things*, as he ought,
' to thoſe emiſſaries, let him be apprehended and compelled to pay the
' value of both depoſits : this is a ſettled rule.

185. ' A depoſit, whether ſealed up or not, ſhould never be redeli-
' vered, while the depoſitor is alive, to his heir apparent or preſump-
' tive : both ſorts of depoſits, indeed, are extinct, *or cannot be demanded*
' *by the heir*, if the depoſitor die, *in that caſe* ; but not, unleſs he die,
' *for, ſhould the heir apparent keep them, the depoſitor himſelf may ſue the*
' *bailee :*

186. ' But,

186. 'But, if a depositary by his own free act shall deliver a deposit 'to the heir of a deceased bailor, he must not be harassed *with claims* '*of a similar kind,* either by the king, or by that heir;

187. 'And, *if similar claims be made,* the king must decide the ques- 'tions after friendly admonition, *without having recourse to artifice*; 'for, the honest disposition of the man being proved, the judge must 'proceed with mildness.

188. 'Such is the mode of ascertaining the right in all these cases of 'a deposit: in the case of a deposit sealed up, the bailee shall incur no 'censure *on the redelivery,* unless he have *altered the seal or* taken out 'something.

189. 'If a deposit be seized by thieves, *or destroyed by vermine,* 'or washed away by water, or consumed by fire, the bailee shall 'not be obliged to make it good, unless he took part of it for him- 'self.

190. 'The defendant, who denies a deposit, and the plaintiff, who 'asserts it, let the king try by all sorts of expedients, and by the modes 'of ordeal prescribed in the *Véda.*

191. 'He, who restores not a thing really deposited, and he, who 'demands what he never bailed, shall both, *for a second offence,* be pu- 'nished as thieves, *if gold, pearls, or the like be demanded*; or, *in the* '*case of a trifling demand,* shall pay a fine equal to the value of the 'thing claimed:

192. 'For

192. 'For the first offence, the king should compel a fraudulent 'depositary, without any distinction between a deposit under seal or 'open, to pay a fine equal to its value.

193. 'That man, who, by false pretences, gets into his hands 'the goods of another, shall, together with his accomplices, be 'punished by various degrees of whipping or mutilation, or even by 'death.

194. '*Regularly*, a deposit should be produced, the same in kind 'and quantity as it was bailed, by the same and to the same person, 'by whom and from whom it was received, and before the same com-'pany, *who were witnesses to the deposit*: he who produces it in a dif-'ferent manner, ought to be fined;

195. 'But a thing, privately deposited, should be privately restored 'by and to the person, by and from whom it was received: as the 'bailment *was*, so *should be* the delivery, *according to a rule in the* 'Véda.

196. 'Thus let the king decide causes concerning a deposit, or a 'friendly loan for use, without showing rigour to the depositary.

197. 'Him, who sells the property of another man, without the 'assent of the owner, the judge shall not admit as a competent witness, 'but shall treat as a thief, who pretends that he has committed no 'theft:

198. 'If, indeed, he be a near kinsman of the owner, he shall be 'fined six hundred *panas*; but, if he be neither his kinsman nor a 'claimant under him, he commits an offence equal to larceny.

199. 'A

199. ‘ A gift or ſale, thus made by any other than the true owner,
‘ muſt, by a ſettled rule, be conſidered, in judicial proceedings, as
‘ not made.

200. ‘ Where occupation *for a time* ſhall be proved, but no ſort of
‘ title ſhall appear, *the ſale cannot be ſupported:* title, not occupation, is
‘ eſſential to its ſupport ; *and* this rule *alſo* is fixed.

201. ‘ He, who has received a chattel, by purchaſe in open market,
‘ before a number of men, juſtly acquires the abſolute property, by
‘ having paid the price of it, *if he can produce the vendor* ;

202. ‘ But, if the vendor be not producible, and the vendee prove
‘ the public ſale, the latter muſt be diſmiſſed by the king without
‘ puniſhment ; and the former owner, who loſt the chattel, may take
‘ it back *on paying the vendee half its value.*

203. ‘ One commodity, mixed with another, ſhall never be ſold as
‘ *unmixed* ; nor a bad commodity, as good ; nor leſs *than agreed on* ;
‘ nor any thing kept at a diſtance or concealed, *leſt ſome defect in it*
‘ *ſhould be diſcovered.*

204. ‘ If, after one damſel has been ſhown, another be offered to the
‘ bridegroom, *who had purchaſed leave to marry her from her next kinſ-*
‘ *man,* he may become the huſband of both for the ſame price : this
‘ law MENU ordained.

205. ‘ The kinſman, who gives a damſel in marriage, having firſt
‘ openly told her blemiſhes, whether ſhe be inſane, or diſordered with
‘ elephantiaſis, or defiled by connexion with a man, ſhall ſuffer no pu-
‘ niſhment.

206. ‘ IF

206. 'If an officiating prieſt, actually engaged in a ſacrifice, abandon his work, a ſhare only, in proportion to his work done, ſhall 'be given to him by his partners in the buſineſs, *out of their common 'pay*:

207. 'But, if he diſcontinue his work *without fraud*, after the time of 'giving the ſacrificial fees, he may take his full ſhare, and cauſe what 'remains to be performed by another prieſt.

208. 'Where, on the performance of ſolemn rites, a ſpecifick fee 'is ordained for each part of them, ſhall he alone, who performs that 'part, receive the fee, or ſhall all the prieſts take the perquiſites 'jointly?

209. '*At ſome holy rites*, let the reader of the *Yajurvéda* take the 'car, and the *Brahmá*, or ſuperintending prieſt, the horſe; or, *on 'another occaſion*, let the reader of the *Rĭgvéda* take the horſe, and 'the chanter of the *Sámavéda* receive the carriage, in which the pur-'chaſed materials of the ſacrifice had been brought.

210. '*A hundred cows being diſtributable among ſixteen prieſts*, the four 'chief, *or firſt ſet*, are entitled to *near* half, *or forty-eight*; the next 'four, to half of that number; the third ſet, to a third part of it; and 'the fourth ſet, to a quarter:

211. 'According to this rule, *or in proportion to the work*, muſt allot-'ments of ſhares be given to men here below, who, *though* in con-'junction, perform their ſeveral parts of the buſineſs.

212. 'Should money or goods be given, *or promiſed as a gift*, by 'one man to another, who aſks it for ſome religious act, the gift ſhall 'be void, if that act be not afterwards performed:

213. 'If the money be delivered, and the receiver, through pride or 'avarice, refuſe *in that caſe* to return it, he ſhall be fined one *ſuverna* 'by the king, as a puniſhment for his theft.

214. 'Such, as here declared, is the rule ordained for withdrawing 'what has been given: I will, next, propound the law for nonpay-'ment of wages.

215. 'That hired ſervant or workman, who, not from any diſorder 'but from indolence, fails to perform his work according to his agree-'ment, ſhall be fined eight *racticas*, and his wages or hire ſhall not 'be paid.

216. 'But, if he be really ill, and, when reſtored to health, ſhall 'perform his work according to his original bargain, he ſhall receive 'his pay even for a very long time:

217. 'Yet, whether he be ſick or well, if the work ſtipulated be 'not performed *by another for him or by himſelf*, his whole wages 'are forfeited, though the work want but a little of being com-'*plete*.

218. 'This is the general rule concerning work undertaken for 'wages or hire: next, I will fully declare the law concerning ſuch 'men as break their promiſes.

219. 'The

219. 'The man, among the traders and other inhabitants of a 'town or diſtrict, who breaks a promiſe through avarice, though 'he had taken an oath to perform it, let the king baniſh from his 'realm:

220. 'Or, *according to circumſtances*, let the judge, having arreſted 'the promiſebreaker, condemn him to pay ſix *niſhcas*, or four *ſuvernas*, 'or one *ſatamána* of ſilver, or all three *if he deſerve ſuch a fine.*

221. 'Among all citizens and in all claſſes, let a juſt king ob-'ſerve this rule for impoſing fines on men, who ſhall break their en-'gagements.

222. 'A man, who has bought or ſold any thing in this world, *that* '*has a fixed price and is not periſhable, as land or metals*, and wiſhes to 'reſcind the contract, may give or take back ſuch a thing within ten 'days;

223. 'But, after ten days, he ſhall neither give nor take it back: 'the giver or the taker, *except by conſent*, ſhall be fined by the king ſix 'hundred *panas*.

224. 'The king himſelf ſhall take a fine of ninety-ſix *panas* from 'him, who gives a blemiſhed girl *in marriage for a reward*, without 'avowing her blemiſh;

225. 'But the man, who, through malignity, ſays of a damſel, that 'ſhe is no virgin, ſhall be fined a hundred *panas*, if he cannot prove 'her defilement.

226. 'The

226. 'The holy nuptial texts are applied ſolely to virgins, and no 'where on earth to girls, who have loſt their virginity; ſince thoſe 'women are *in general* excluded from legal ceremonies:

227. 'The nuptial texts are a certain rule in regard to wedlock; 'and the bridal contract is known by the learned to be complete *and 'irrevocable* on the ſeventh ſtep *of the married pair, hand in hand, 'after thoſe texts have been pronounced.*

228. 'By this law, in all buſineſs whatever here below, muſt the 'judge confine, within the path of rectitude, a perſon inclined to 'reſcind his contract of ſale and purchaſe.

229. 'I NOW will decide exactly, according to principles of law, 'the conteſts uſually ariſing from the fault of ſuch as own herds of 'cattle, and of ſuch as are hired to keep them.

230. 'By day the blame falls on the herdſman; by night on the 'owner, *if the cattle be fed and kept* in his own houſe; but, if the 'place of their food and cuſtody be different, the keeper incurs the 'blame.

231. 'That hired ſervant, whoſe wages are paid with milk, may, 'with the aſſent of the owner, milk the beſt cow out of ten: ſuch are 'the wages of herdſmen, unleſs they be paid in a different mode.

232. 'The herdſman himſelf ſhall make good the loſs of a beaſt, 'which through his want of due care has ſtrayed, has been deſtroyed 'by reptiles, or killed by dogs, or has died by falling into a pit;

233. 'But

233. ‘ But he ſhall not be compelled to make it good, when robbers ‘ have carried it away, if, after freſh proclamation and purſuit, he ‘ give notice to his maſter in a proper place and ſeaſon.

234. ‘ When cattle die, let him carry to his maſter their ears, their ‘ hides, their tails, the ſkin below their navels, their tendons, and the ‘ liquor exuding from their foreheads : let him alſo point out their limbs.

235. ‘ A flock of goats or of ſheep being attacked by wolves, and ‘ the keeper not going *to repel the attack*, he ſhall be reſponſible for ‘ every one of them, which a wolf ſhall violently kill ;

236. ‘ But, if any one of them, while they graze together near a ‘ wood, and the ſhepherd keeps them in order, ſhall be ſuddenly ‘ killed by a wolf ſpringing on it, he ſhall not in that caſe be reſpon- ‘ ſible.

237. ‘ On all ſides of a village or ſmall town, let a ſpace be left for ‘ paſture, in breadth either four hundred cubits, or three caſts of a ‘ large ſtick ; and thrice that ſpace round a city or conſiderable town :

238. ‘ Within that paſture ground, if cattle do any damage to grain ‘ in a field uninclоſed with a hedge, the king ſhall not puniſh the ‘ herdſman.

239. ‘ Let the owner of the field encloſe it with a hedge *of thorny* ‘ *plants*, over which a camel could not look ; and let him ſtop every ‘ gap, through which a dog or a boar could thruſt his head.

240. ‘ Should cattle, attended by a herdſman, do miſchief near a ‘ highway, in an encloſed field or near the village, he ſhall be fined a ‘ hundred

'hundred *panas*; but againſt cattle, which have no keeper, let the 'owner of the field ſecure it.

241. 'In other fields, the *owner of* cattle *doing miſchief* ſhall be 'fined one *pana* and a quarter; but, in all places, the value of the '*damaged* grain muſt be paid: ſuch is the fixed rule concerning a 'huſbandman.

242. 'For damage by a cow before ten days have paſſed ſince her 'calving, by bulls kept for impregnation, and by cattle conſecrated to 'the deity, whether attended or unattended, MENU has ordained no 'fine.

243. 'If land be injured, by the fault of the farmer himſelf, *as if he* '*fails to ſow it in due time*, he ſhall be fined ten times as much as the '*king's* ſhare *of the crop, that might otherwiſe have been raiſed*; but 'only five times as much, if it was the fault of his ſervants without 'his knowledge.

244. 'Theſe rules let a juſt prince obſerve in all caſes of tranſ-'greſſion by maſters, their cattle, and their herdſmen.

245. 'IF a conteſt ariſe between two villages, *or landholders*, con-'cerning a boundary, let the king, *or his judge*, aſcertain the limits 'in the month of *Jyaiſht'ha*, when the landmarks are ſeen more 'diſtinctly.

246. '*When boundaries firſt are eſtabliſhed*, let ſtrong trees be planted 'on them, *Vatas*, *Pippalas*, *Paláſas*, *Sálmalis*, *Sálas*, or *Tálas*; or ſuch 'trees (*like the* Udumbara *or* Vajradru) as abound in milk;

247. 'Or

247. 'Or cluſtering ſhrubs, or *Vénus* of different ſorts, or *Samí*-trees, 'and creepers, or *Saras*, and clumps of *Cubjacas:* and mounds of earth 'ſhould be raiſed on them; ſo that the landmark may not eaſily periſh:

248. 'Lakes and wells, pools and ſtreams, ought alſo to be made on 'the common limits, and temples dedicated to the gods.

249. 'The perſons concerned, reflecting on the perpetual treſpaſſes 'committed by men here below through ignorance of boundaries, 'ſhould cauſe other landmarks to be concealed *under ground:*

250. 'Large pieces of ſtone, bones, tails of cows, bran, aſhes, pot-'ſherds, dried cowdung, bricks and tiles, charcoal, pebbles, and ſand,

251. 'And ſubſtances of all ſorts, which the earth corrodes not 'even in a long time, ſhould be placed *in jars* not appearing *above* '*ground* on the common boundary.

252. 'By ſuch marks, or by the courſe of a ſtream, and long con-'tinued poſſeſſion, the judge may aſcertain the limit between the lands 'of two parties in litigation:

253. 'Should there be a doubt, even on the inſpection of thoſe 'marks, recourſe muſt be had, for the deciſion of ſuch a conteſt, to 'the declarations of witneſſes.

254. 'Thoſe witneſſes muſt be examined concerning the landmarks, 'in the preſence of all the townſmen or villagers, or of both the 'contending parties:

255. 'What

255. ' What the witneſſes, thus aſſembled and interrogated, ſhall
' poſitively declare concerning the limits, muſt be recorded in writing,
' together with all their names.

256. ' Let them, putting earth on their heads, wearing chaplets of
' red flowers and clad in red mantles, be ſworn by *the reward of*
' all their ſeveral good actions, to give correct evidence concerning
' the metes and bounds.

257. ' Veracious witneſſes, who give evidence as the law requires,
' are abſolved from their ſins; but ſuch, as give it unjuſtly, ſhall each
' be fined two hundred *panas*.

258. ' If there be no witneſſes, let four men, who dwell on all
' the four ſides of the two villages, make a deciſion concerning the
' boundary, being duly prepared, *like the witneſſes*, in the preſence
' of the king.

259. ' If there be no ſuch neighbours on all ſides, nor any men,
' whoſe anceſtors had lived there ſince the villages were built, nor
' other inhabitants of towns, who can give evidence on the limits,
' the judge muſt examine the following men, who inhabit the
' woods;

260. ' Hunters, fowlers, herdſmen, fiſhers, diggers for roots, catchers
' of ſnakes, gleaners, and other foreſters:

261. ' According to their declaration, when they are duly examined,
' let the king with preciſion order landmarks to be fixed on the
' boundary line between the two villages.

262. ' As

262. ‘ As to the bounds of arable fields, wells or pools, gardens and ‘ houſes, the teſtimony of next neighbours on every ſide muſt be con- ‘ ſidered as the beſt means of deciſion :

263. ‘ Should the neighbours ſay any thing untrue, when two men ‘ diſpute about a landmark, the king ſhall make each of thoſe wit- ‘ neſſes pay the middlemoſt of the three uſual amercements.

264. ‘ He, who, by means of intimidation, ſhall poſſeſs himſelf of a ‘ houſe, a pool, a field, or a garden, ſhall be fined five hundred *panas* ; ‘ but only two hundred, if he treſpaſſed through ignorance *of the right*.

265. ‘ If the boundary cannot be *otherwiſe* aſcertained, let the king, ‘ knowing what is juſt, *that is, without partiality, and* conſulting the ‘ future benefit of both parties, mark a boundline between their lands : ‘ this is a ſettled law.

266. ‘ Thus has the rule been propounded for deciſions concerning land- ‘ marks : I, next, will declare the law concerning defamatory words.

267. ‘ A SOLDIER, defaming a prieſt, ſhall be fined a hundred *panas*; ‘ a merchant, *thus offending*, an hundred and fifty, or two hundred : ‘ but, *for ſuch an offence*, a mechanick or ſervile man ſhall be whipped.

268. ‘ A prieſt ſhall be fined five hundred, if he ſlander a ſoldier ; ‘ twenty-five, if a merchant ; and twelve, if he ſlander a man of the ‘ ſervile claſs.

269. ‘ For abuſing one of the ſame claſs, a twiceborn man ſhall ‘ be fined only twelve ; but for ribaldry not to be uttered, even that ‘ *and every fine* ſhall be doubled.

270. ‘ A onceborn man, who inſults the twiceborn with groſs in-
‘ vectives, ought to have his tongue ſlit ; for he ſprang from the loweſt
‘ part *of* BRAHMA′:

271. ‘ If he mention their names and claſſes with contumely, *as if he*
‘ *ſay* “ *Oh !* DE′VADATTA, *thou refuſe of* Bráhmens,” an iron ſtyle, ten
‘ fingers long, ſhall be thruſt redhot into his mouth.

272. ‘ Should he, through pride, give inſtruction to prieſts concern-
‘ ing their duty, let the king order ſome hot oil to be dropped into his
‘ mouth and his ear.

273. ‘ He, who falſely denies, through inſolence, the ſacred know-
‘ ledge, the country, the claſs, or the corporeal inveſtiture *of a man equal*
‘ *in rank*, ſhall be compelled to pay a fine of two hundred *panas*.

274. ‘ If a man call another blind with one eye, or lame, or defec-
‘ tive in any ſimilar way, he ſhall pay the ſmall fine of one *pana*, even
‘ though he ſpeak truth.

275. ‘ He ſhall be fined a hundred, who defames his mother, his
‘ father, his wife, his brother, his ſon, or his preceptor ; and he, who
‘ gives not his preceptor the way.

276. ‘ For *mutual* abuſe by a prieſt and a ſoldier, this fine muſt be
‘ impoſed by a learned king ; the loweſt amercement on the prieſt,
‘ and the middlemoſt on the ſoldier.

277. ‘ Such exactly, *as before mentioned*, muſt be the puniſhment of
‘ a merchant and a mechanick, in reſpect of their ſeveral claſſes, ex-
‘ cept the ſlitting of the tongue : this is a fixed rule of puniſhment.

278. ‘ THUS

278. ‘ Thus fully has the law been declared for the puniſhment of ‘ defamatory ſpeech: I will, next, propound the eſtabliſhed law con-‘ cerning aſſault and battery.

279. ‘ With whatever member a lowborn man ſhall aſſault or ‘ hurt a ſuperiour, even that member of his muſt be ſlit, *or cut* ‘ *more or leſs in proportion to the injury:* this is an ordinance of ‘ Menu.

280. ‘ He, who raiſes his hand or a ſtaff againſt another, ſhall have ‘ his hand cut; and he, who kicks another in wrath, ſhall have an ‘ inciſion made in his foot.

281. ‘ A man of the loweſt claſs, who ſhall inſolently place himſelf ‘ on the ſame ſeat with one of the higheſt, ſhall either be baniſhed ‘ with a mark on his hinder parts, or the king ſhall cauſe a gaſh to be ‘ made on his buttock:

282. ‘ Should he ſpit on him through pride, the king ſhall order ‘ both of his lips to be gaſhed; ſhould he urine on him, his penis; ‘ ſhould he break wind againſt him, his anus.

283. ‘ If he ſeize the *Bráhmen* by the locks, or by the feet, or by the ‘ beard, or by the throat, or by the ſcrotum, let the king without heſi-‘ tation cauſe inciſions to be made in his hands.

284. ‘ If any man ſcratch the ſkin *of his equal in claſs*, or fetch ‘ blood *from him*, he ſhall be fined a hundred *panas*; if he wound ‘ a muſcle, ſix *niſhcas:* but, if he break a bone, let him be inſtantly ‘ baniſhed.

285. ‘ According

285. 'According to the uſe and value of all great trees, muſt a 'fine be ſet for injuring them: this is an eſtabliſhed rule.

286. 'If a blow, attended with much pain, be given either to hu-'man creatures or cattle, the king ſhall inflict on the ſtriker a puniſh-'ment as heavy as the preſumed ſuffering.

287. 'In all caſes of hurting a limb, wounding, or fetching blood, 'the aſſailant ſhall pay the expence of a perfect cure; or, *on his failure*, 'both full damages and a fine to the ſame amount.

288. 'He, who injures the goods of another, whether acquainted 'or unacquained with the owner of them, ſhall give ſatisfaction to the 'owner, and pay a fine to the king equal to the damage.

289. 'If injury be done to leather or to leathern bags, or to utenſils 'made of wood or clay, the fine ſhall be five times their value.

290. 'The wiſe reckon ten occaſions, in regard to a carriage, its 'driver, and its owner, on which the fine is remitted; on other occa-'ſions a fine is ordained by law:

291. 'The noſecord or bridle being cut, *by ſome accident without* '*negligence*, or the yoke being ſnapped, on a ſudden overturn, or run-'ning againſt any thing *without fault*, the axle being broken, or the 'wheel cracked;

292. 'On the breaking of the thongs, of the halter, or of the reins, 'and when the driver has called aloud to make way, *on theſe occaſions* 'has Menu declared that no fine ſhall be ſet:

293. 'But,

293. ‘ But, where a carriage has been overturned by the unſkilful-
‘ neſs of the driver, there, in the caſe of any hurt, the maſter ſhall be
‘ fined two hundred *panas.*

294. ‘ If the driver be ſkilful, *but negligent*, the driver alone ſhall be
‘ fined; and thoſe in the carriage ſhall be fined each a hundred, if the
‘ driver be clearly unſkilful.

295. ‘ Should a driver, being met in the way by another carriage or
‘ by cattle, kill any animal *by his negligence*, a fine ſhall, without doubt,
‘ be impoſed *by the following rule:*

296. ‘ For killing a man, a fine, equal to that for theft, ſhall be in-
‘ ſtantly ſet; half that amount, for large brute animals, as for a bull or
‘ cow, an elephant, a camel, or a horſe;

297. ‘ For killing very young cattle, the fine ſhall be two hundred
‘ *panas*; and fifty, for elegant quadrupeds or beautiful birds, as *ante-*
‘ *lopes*, *parrots*, *and the like*;

298. ‘ For an aſs, a goat, or a ſheep, the fine muſt be five ſilver
‘ *máſhas*; and one *máſha*, for killing a dog or a boar.

299. ‘ A WIFE, a ſon, a ſervant, a pupil, and a *younger* whole bro-
‘ ther, may be corrected, when they commit faults, with a rope or the
‘ ſmall ſhoot of a cane;

300. ‘ But on the back part only of their bodies, and not on a noble
‘ part by any means: he, who ſtrikes them otherwiſe than by this rule,
‘ incurs the guilt, *or ſhall pay the fine*, of a thief.

301. ‘ This

301. 'This law of aſſault and battery has been completely de-
'clared: I proceed to declare the rule for the ſettled puniſhment of
'theft.

302. 'In reſtraining thieves and robbers, let the king uſe extreme
'diligence; ſince, by reſtraining thieves and robbers, his fame and
'his domain are increaſed.

303. 'Conſtantly, no doubt, is that king to be honoured, who
'beſtows exemption from fear; ſince he performs, *as it were*, a per-
'petual ſacrifice, giving exemption from fear as a conſtant ſacrificial
'preſent.

304. 'A ſixth part of *the reward for* virtuous deeds, performed by
'the whole people, belongs to the king, who protects them; but, if he
'protect them not, a ſixth part of their iniquity lights on him.

305. 'Of *the reward for* what every ſubject reads in the *Véda*, for
'what he ſacrifices, for what he gives in charity, for what he per-
'forms in worſhip, the king juſtly takes a ſixth part in conſequence of
'protection.

306. 'A king, who acts with juſtice in defending all creatures, and
'ſlays only thoſe, who ought to be ſlain, performs, *as it were*, each day
'a ſacrifice with a hundred thouſand gifts;

307. 'But a king, who gives no ſuch protection, yet receives taxes
'in kind or in value, market duties and tolls, the ſmall daily preſents
'for his houſehold, and fines for offences, falls directly *on his death* to
'a region of horrour.

308. 'That

308. 'That king, who gives no protection, yet takes a ſixth part of 'the grain as his revenue, wiſe men have conſidered as a prince, who 'draws to him the foulneſs of all his people.

309. 'Be it known, that a monarch, who pays no regard to the 'ſcriptures, who denies a future ſtate, who acts with rapacity, who 'protects not his people, yet ſwallows up their poſſeſſions, will ſink 'low indeed *after death*.

310. 'WITH great care and by three methods let him reſtrain the 'unjuſt; by impriſonment, by confinement in fetters, and by various 'kinds of corporal puniſhment;

311. 'Since, by reſtraining the bad, and by encouraging the good, 'kings are perpetually made pure, as the twiceborn are purified by 'ſacrificing.

312. 'A KING, who ſeeks benefit to his own ſoul, muſt always for'give parties litigant, children, old men, and ſick perſons, who inveigh 'againſt him:

313. 'He, who forgives perſons in pain, when they abuſe him, ſhall 'on that account be exalted in heaven; but he, who excuſes them not, 'through the pride of dominion, ſhall for that reaſon ſink into hell.

314. 'THE ſtealer *of gold from a prieſt* muſt run haſtily to the king, 'with looſened hair, proclaiming the theft, *and adding:* "Thus have "I ſinned; puniſh me."

315. 'He muſt bear on his ſhoulder a peſtle of ſtone, or a club of '*c'hadira*-wood, or a javelin pointed at both ends, or an iron mace:

316. 'Whether

316. ‘ Whether the king ſtrike him with it, or diſmiſs him unhurt, ‘ the thief is then abſolved from the crime; but the king, if he puniſh ‘ him not, ſhall incur the guilt of the thief.

317. ‘ The killer of a prieſt, *or deſtroyer of an embryo*, caſts his guilt ‘ on the *willing* eater of his proviſions; an adulterous wife, on her *neg-* ‘ *ligent* huſband; a bad ſcholar and ſacrificer, on their *ignorant* pre- ‘ ceptor; and a thief, on the *forgiving* prince:

318. ‘ But men, who have committed offences, and have received ‘ from kings the puniſhment due to them, go pure to heaven, and be- ‘ come as clear as thoſe, who have done well.

319. ‘ He, who ſteals the rope or the waterpot from a well, and ‘ he, who breaks down a ciſtern, ſhall be fined a *máſha* of gold; and ‘ that, *which he has taken or injured*, he muſt reſtore to its former con- ‘ dition.

320. ‘ Corporal puniſhment ſhall be inflicted on him, who ſteals ‘ more than ten *cumbhas* of grain (a *cumbha* is twenty *drónas*, ‘ and a *dróna*, two hundred *palas*): for leſs he muſt be fined eleven ‘ times as much, and ſhall pay to the owner the amount of his pro- ‘ perty.

321. ‘ So ſhall corporal puniſhment be inflicted for ſtealing commo- ‘ dities uſually ſold by weight, or more than a hundred head of cattle, ‘ or gold, or ſilver, or coſtly apparel:

322. ‘ For ſtealing more than fifty *palas*, it is enacted that a hand ‘ ſhall be amputated; for leſs, the king ſhall ſet a fine eleven times as ‘ much as the value.

323. ‘ For

323. ‘For ſtealing men of high birth, and women above all, and ‘the moſt precious gems, *as diamonds or rubies*, the thief deſerves ‘capital puniſhment.

324. ‘For ſtealing large beaſts, weapons, or medicines, let the king ‘inflict *adequate* puniſhment, conſidering the time and the act.

325. ‘For taking kine belonging to prieſts, and boring their noſtrils, ‘or for ſtealing their other cattle, the offender ſhall inſtantly loſe half ‘of one foot.

326. ‘For ſtealing thread, raw cotton, materials to make ſpirituous ‘liquor, cowdung, molaſſes, curds, milk, buttermilk, water, or graſs,

327. ‘Large canes, baſkets of canes, ſalt of every kind, earthen-‘pots, clay or aſhes,

328. ‘Fiſh, birds, oil, or clarified butter, fleſhmeat, honey, or any ‘thing, *as leather, horn, or ivory,* that came from a beaſt,

329. ‘Or other things not precious, or ſpirituous liquors, rice dreſſed ‘with clarified butter, or other meſſes of boiled rice, the fine muſt be ‘twice the value of the commodity ſtolen.

330. ‘For ſtealing *as much as a man can carry* of flowers, green ‘corn, ſhrubs, creepers, ſmall trees, or other vegetables, encloſed by ‘a hedge, the fine ſhall be five *racticas* of gold or ſilver;

331. ‘But for corn, potherbs, roots, and fruit, unencloſed by a ‘fence, the fine is a hundred *panas*, if there be no ſort of relation

'*between the taker and owner*; or half a hundred, if there be ſuch 'relation.

332. 'If the taking be violent, and in the ſight of the owner, it is 'robbery; if privately in his abſence, it is only theft; and *it is con-'ſidered as theft*, when a man, having received any thing, refuſes to 'give it back.

333. 'On him, who ſteals the beforementioned things, when they 'are prepared for uſe, let the king ſet the loweſt amercement *of the 'three*; and *the ſame* on him, who ſteals only fire from the temple.

334. 'With whatever limb a thief commits the offence by any means 'in this world, *as if he break a wall with his hand or his foot*, even that 'limb ſhall the king amputate, for the prevention of a ſimilar crime.

335. 'Neither a father, nor a preceptor, nor a friend, nor a mo-'ther, nor a wife, nor a ſon, nor a domeſtick prieſt, muſt be left 'unpuniſhed by the king, if they adhere not with firmneſs to their 'duty.

336. 'Where another man of lower birth would be fined one *pana*, 'the king ſhall be fined a thouſand, *and he ſhall give the fine to the 'prieſts, or caſt it into the river:* this is a ſacred rule.

337. 'But the fine of a *Súdra* for theft ſhall be eightfold; that of a '*Vaiſya*, ſixteenfold; that of a *Cſhatriya*, two and thirtyfold.

338. 'That of a *Bráhmen*, four and ſixtyfold, or a hundredfold com-'plete, or even twice four and ſixtyfold; each of them knowing the 'nature of his offence.

339. 'The

339. ‘The taking of roots, and fruit from a large tree, *in a field or* ‘*a forest* unenclosed, or of wood for a sacrificial fire, or of grass to be ‘eaten by cows, MENU has pronounced no theft.

340. ‘A PRIEST who willingly receives any thing, either for sa-‘crificing or for instructing, from the hand of a man, who had taken ‘what the owner had not given, shall be *punished* even as the thief.

341. ‘A twiceborn man, who is travelling, and whose provisions are ‘scanty, shall not be fined, for taking only two sugar canes, or two ‘esculent roots, from the field of another man.

342. ‘He, who ties the unbound, or looses the bound, *cattle of another*, ‘and he, who takes a slave, a horse, or a carriage *without permission*, ‘shall be punished as for theft.

343. ‘A king, who, by *enforcing* these laws, restrains men from ‘committing theft, acquires in this world fame, and, in the next, ‘beatitude.

344. ‘LET not the king, who ardently desires a seat with INDRA, ‘and wishes for glory, which nothing can change or diminish, endure ‘for a moment the man, who has committed atrocious violence, as by ‘robbery, arson, or homicide.

345. ‘He, who commits great violence, must be considered as a ‘more grievous offender than a defamer, a thief, or a striker with a ‘staff:

346. ‘That king, who endures a man convicted of such atrocity, ‘quickly goes to perdition and incurs publick hate.

347. ‘Neither

347. 'Neither on account of friendſhip, nor for the ſake of great 'lucre, ſhall the king diſmiſs the perpetrators of violent acts, who 'ſpread terrour among all creatures.

348. 'The twiceborn may take arms, when their duty is obſtructed 'by force; and when, in ſome evil time, a diſaſter has befallen the 'twiceborn claſſes;

349. 'And in their own defence; and in a war for juſt cauſe; and 'in defence of a women or a prieſt: he, who kills juſtly, commits 'no crime.

350. 'Let a man, without heſitation, ſlay another, *if he cannot other-'wiſe eſcape*, who aſſails him with intent to murder, whether young or 'old, or his preceptor, or a *Bráhmen* deeply verſed in the ſcripture.

351. 'By killing an aſſaſſin, who attempts to kill, whether in publick 'or in private, no crime is committed by the ſlayer: fury recoils upon 'fury.

352. 'Men, who commit overt acts of adulterous inclinations for the 'wives of others, let the king baniſh from his realm, having puniſhed 'them with ſuch bodily marks, as excite averſion;

353. 'Since adultery cauſes, to the general ruin, a mixture of claſſes 'among men: thence ariſes violation of duties; and thence is the root 'of felicity quite deſtroyed.

354. 'A man, before noted for ſuch an offence, who converſes in 'ſecret with the wife of another, ſhall pay the firſt of the three uſual 'amercements;

355. 'But

355. ‘But a man, not before noted, who thus converſes with her ‘for ſome reaſonable cauſe, ſhall pay no fine; ſince in him there is no ‘tranſgreſſion.

356. ‘He, who talks with the wife of another man at a place of ‘pilgrimage, in a foreſt or a grove, or at the confluence of rivers, in-‘curs the guilt of an adulterous inclination:

357. ‘To ſend her flowers or perſumes, to ſport and jeſt with her, ‘to touch her apparel and ornaments, to ſit with her on the ſame ‘couch, are all held adulterous acts on his part.

358. ‘To touch a married woman on *her breaſts or* any *other* place, ‘which ought not to be touched, or, being touched unbecomingly by ‘her, to bear it complacently, are adulterous acts with mutual aſſent.

359. ‘A man of the ſervile claſs, who commits actual adultery with ‘the wife of a prieſt, ought to ſuffer death: the wives, indeed, of all ‘the four claſſes muſt ever be moſt eſpecially guarded.

360. ‘Mendicants, encomiaſts, men prepared for a ſacrifice, and ‘*cooks and other* artiſans, are not prohibited from ſpeaking to married ‘women.

361. ‘Let no man converſe, after he has been forbidden, with the ‘wives of others: he, who thus converſes, *after a huſband or father has* ‘forbidden *him*, ſhall pay a fine of one *ſuverna.*

362. ‘Theſe laws relate not to the wives of publick dancers or ‘ſingers, or of ſuch baſe men, as live by intrigues of their wives; men, ‘who

'who either carry women to others, or, lying concealed at home, per-
'mit them to hold a culpable intercourſe:

363. 'Yet he, who has a private connexion with ſuch women, or 'with ſervant girls kept by one maſter, or with female anchorets *of* '*an heretical religion*, ſhall be compelled to pay a ſmall fine.

364. 'He, who vitiates a damſel without her conſent, ſhall ſuffer 'corporal puniſhment inſtantly; but he, who enjoys a willing damſel, 'ſhall not be corporally puniſhed, if his claſs be the ſame with hers.

365. 'From a girl, who makes advances to a man of a high claſs, 'let not the king take the ſmalleſt fine; but her, who firſt addreſſes a 'low man, let him conſtrain to live in her houſe well guarded.

366. 'A low man, who makes love to a damſel of high birth, ought 'to be puniſhed corporally; but he, who addreſſes a maid of equal 'rank, ſhall give the nuptial preſent *and marry her*, if her father 'pleaſe.

367. 'Of the man, who through inſolence forcibly contaminates a 'damſel, let the king inſtantly order two fingers to be amputated, and 'condemn him to pay a fine of ſix hundred *panas*:

368. 'A man of equal rank, who defiles a conſenting damſel, ſhall 'not have his fingers amputated, but ſhall pay a fine of two hundred '*panas*, to reſtrain him from a repetition of his offence.

369. 'A damſel, polluting another damſel, muſt be fined two hun-'dred *panas*, pay the double value of her nuptial preſent, and receive 'ten laſhes with a whip;

370. 'But

370. ‘ But a woman, polluting a damſel, ſhall have her head in-
‘ ſtantly ſhaved, and two of her fingers chopped off; and ſhall ride,
‘ mounted on an aſs, *through the publick ſtreet.*

371. ‘ Should a wife, proud of her family and the great qualities of
‘ her kinſmen, actually violate the duty, which ſhe owes to her lord,
‘ let the king condemn her to be devoured by dogs in a place much
‘ frequented ;

372. ‘ And let him place the adulterer on an iron bed well heated,
‘ under which the executioners ſhall throw logs continually, till the
‘ ſinful wretch be there burned *to death.*

373. ‘ Of a man once convicted, and a year after guilty *of the ſame*
‘ *crime*, the fine muſt be doubled; *ſo it muſt*, if he be connected with
‘ the daughter of an outcaſt or with a *Chándálí* woman.

374. ‘ A mechanick or ſervile man, having an adulterous connexion
‘ with a woman of a twiceborn claſs, whether guarded at home or
‘ unguarded, *ſhall thus be puniſhed:* if ſhe was unguarded, *he* ſhall loſe
‘ the part *offending*, and his whole ſubſtance; if guarded, *and a prieſteſs*,
‘ every thing, *even his life.*

375. ‘ *For adultery with a guarded prieſteſs*, a merchant ſhall forfeit
‘ all his wealth after impriſonment for a year; a ſoldier ſhall be fined a
‘ thouſand *panas*, and be ſhaved with *the* urine *of an aſs*;

376. ‘ But, if a merchant or ſoldier commit adultery with a wo-
‘ man of the ſacerdotal claſs, whom her huſband guards not at home,
‘ the king ſhall only fine the merchant five hundred, and the ſoldier
‘ a thouſand:

377. ‘ Both

377. 'Both of them, however, if they commit that offence with a 'prieſteſs *not only* guarded *but eminent for good qualities*, ſhall be 'puniſhed like men of the ſervile claſs, or be burned in a fire of dry 'graſs or reeds.

378. 'A *Bráhmen*, who carnally knows a guarded woman without 'her free will, muſt be fined a thouſand *panas*; but only five hundred if 'he knew her with her free conſent.

379. 'Ignominious tonſure is ordained, inſtead of capital puniſh-'ment, for an adulterer of the prieſtly claſs, where the puniſhment of 'other claſſes may extend to loſs of life.

380. 'Never ſhall the king ſlay a *Bráhmen*, though convicted of all 'poſſible crimes: let him baniſh the offender from his realm, but with 'all his property ſecure and his body unhurt:

381. 'No greater crime is known on earth than ſlaying a *Bráhmen*; 'and the king, therefore, muſt not even form in his mind an idea of 'killing a prieſt.

382. 'If a merchant converſe criminally with a guarded woman 'of the military, or a ſoldier with one of the mercantile, claſs, they 'both deſerve the ſame puniſhment as in the caſe of a prieſteſs un-'guarded:

383. 'But a *Bráhmen*, who ſhall commit adultery with a guarded 'woman of thoſe two claſſes, muſt be fined a thouſand *panas*; and, for 'the like offence with a guarded woman of the ſervile claſs, the fine of 'a ſoldier or a merchant ſhall be alſo one thouſand.

384. 'For

384. 'For adultery with a woman of the military claſs, if unguarded, 'the fine of a merchant is five hundred; but a ſoldier, *for the converſe 'of that offence*, muſt be ſhaved with urine, or pay the fine *juſt mentioned.*

385. 'A prieſt ſhall pay five hundred *panas*, if he connect himſelf 'criminally with an unguarded woman of the military, commercial, or 'ſervile claſs; and a thouſand, *for ſuch a connexion with* a woman of 'a vile *mixed* breed.

386. 'THAT king, in whoſe realm lives no thief, no adulterer, no 'defamer, no man guilty of atrocious violence, and no committer of 'aſſaults, attains the manſion of SACRA.

387. 'By ſuppreſſing thoſe five in his dominion, he gains royalty 'paramount over men of the ſame kingly rank, and ſpreads his fame 'through the world.

388. 'THE ſacrificer, who forſakes the officiating prieſt, and the 'officiating prieſt, who abandons the ſacrificer, each being able to 'do his work, and guilty of no grievous offence, muſt each be fined a 'hundred *panas*.

389. 'A mother, a father, a wife, and a ſon ſhall not be forſaken: 'he, who forſakes either of them, unleſs guilty of a deadly ſin, ſhall 'pay ſix hundred *panas* as a fine to the king.

390. 'LET not a prince, who ſeeks the good of his own ſoul, *haſtily 'and alone* pronounce the law, on a diſpute concerning any legal obſerv-'ance, among twiceborn men in their ſeveral orders;

391. '*But* let him, after giving them due honour according to their 'merit, and, at firſt, having ſoothed them by mildneſs, appriſe them of 'their duty with the aſſiſtance of *Bráhmens*.

392. 'The prieſt, who, gives an entertainment to twenty men of the 'three firſt claſſes, without inviting his next neighbour, and his neigh- 'bour next but one, if both be worthy of an invitation, ſhall be fined 'one *máſha* of ſilver.

393. 'A *Bráhmen* of deep learning in the *Véda*, who invites not 'another *Bráhmen*, both learned and virtuous, to an entertainment '*given on ſome occaſion* relating to his wealth, *as the marriage of his* '*child, and the like*, ſhall be made to pay him twice the value of the 'repaſt, and be fined a *máſha* of gold.

394. 'Neither a blind man, nor an idiot, nor a cripple, nor a man 'full ſeventy years old, nor one who confers great benefits on prieſts 'of eminent learning, ſhall be compelled by any *king* to pay taxes.

395. 'Let the king always do honour to a learned theologian, to a 'man either ſick or grieved, to a little child, to an aged or indigent 'man, to a man of exalted birth, and to a man of diſtinguiſhed 'virtue.

396. 'Let a waſherman waſh *the* clothes *of his employers* by little 'and little, *or piece by piece, and not haſtily*, on a ſmooth board of *Sál-* '*mali*-wood: let him never mix *the* clothes *of one perſon* with *the* 'clothes *of another*, nor ſuffer any *but the owner* to wear them.

397. 'Let a weaver, who has received ten *palas* of cotton thread, 'give them back increaſed to eleven *by the rice-water and the like uſed*

'*in*

'*in weaving:* he, who does otherwise, shall pay a fine of twelve
'*panas*.

398. 'As men versed in cases of tolls, and acquainted with all 'marketable commodities, shall establish the price of saleable things, 'let the king take a twentieth part of *the profit on sales at* that price.

399. 'Of the trader, who, through avarice, exports commodities, 'of which the king justly claims the preemption, or on which he 'has laid an embargo, let the sovereign confiscate the whole property.

400. 'Any seller or buyer, who *fraudulently* passes by the toll office 'at *night or* any *other* improper time, or who makes a false enume-'ration *of the articles bought*, shall be fined eight times as much as 'their value.

401. 'Let the king establish rules for the sale and purchase of all 'marketable things, having duly considered whence they come, *if im-'ported*; and, *if exported*, whither they must be sent; how long they 'have been kept; what may be gained by them; and what has been 'expended on them.

402. 'Once in five nights, or at the close of every half month, *ac-'cording to the nature of the commodities*, let the king make a regulation 'for market prices in the presence of those *experienced men:*

403. 'Let all weights and measures be well ascertained by him; 'and once in six months let him re-examine them.

404. 'The

404. 'The toll at a ferry is one *pana* for an empty cart; half a *pana*, 'for a man with a load; a quarter, for a beaſt uſed in agriculture, or 'for a women; and an eighth, for an unloaded man.

405. 'Waggons, filled with goods packed up, ſhall pay toll in pro- 'portion to their value; but for empty veſſels and bags, and for *poor* 'men ill-apparelled, a very ſmall toll ſhall be demanded.

406. 'For a long paſſage, the freight muſt be proportioned to places 'and times; but this muſt be underſtood of paſſages up and down 'rivers: at ſea there can be no ſettled freight.

407. 'A women, who has been two months pregnant, a religious 'beggar, a foreſter in the third order, and *Bráhmens*, *who are* ſtudents 'in theology, ſhall not be obliged to pay toll for their paſſage.

408. 'Whatever ſhall be broken in a boat, by the fault of the boat- 'men, ſhall be made good by thoſe men collectively, each paying his 'portion.

409. 'This rule, ordained for ſuch as paſs rivers in boats, relates 'to the culpable neglect of boatmen on the water: in the caſe of in- 'evitable accident, there can be no damages recovered.

410. 'The king ſhould order each man of the mercantile claſs to 'practiſe trade, or moneylending, or agriculture and attendance on 'cattle; and each man of the ſervile claſs to act in the ſervice of the 'twiceborn.

411. 'Both

411. ‘ Both him of the military, and him of the commercial clafs, ‘ if diftreffed for a livelihood, let fome wealthy *Bráhmen* fupport, oblig- ‘ ing them without harfhnefs to difcharge their feveral duties.

412. ‘ A *Bráhmen*, who, by his power and through avarice, fhall ‘ caufe twiceborn men, girt with the facrificial thread, to perform ‘ fervile acts, *fuch as wafhing his feet*, without their confent, fhall be ‘ fined by the king fix hundred *panas* ;

413. ‘ But a man of the fervile clafs, whether bought or unbought, ‘ he may compel to perform fervile duty ; becaufe fuch a man was ‘ created by the Self-exiftent for the purpofe of ferving *Bráhmens:*

414. ‘ A *Súdra*, though emancipated by his mafter, is not releafed ‘ from a ftate of fervitude ; for of a ftate, which is natural to him, by ‘ whom can he be divefted ?

415. ‘ THERE are fervants of feven forts ; one made captive under a ‘ ftandard *or in battle*, one maintained in confideration of fervice, one ‘ born of a female flave in the houfe, one fold, or given, or inherited ‘ from anceftors, and one enflaved by way of punifhment *on his inability* ‘ *to pay a large fine*.

416. ‘ Three perfons, a wife, a fon, and a flave, are declared by ‘ law to have *in general* no wealth exclufively their own : the wealth, ‘ which they may earn, is *regularly* acquired for the man, to whom ‘ they belong.

417. ‘ A *Bráhmen* may feize without hefitation, *if he be diftreffed* ‘ *for a fubfiftence*, the goods of his *Súdra* flave ; for, as that flave can ‘ have no property, his mafter may take his goods.

418. ‘ With

418. 'With vigilant care ſhould the king exert himſelf in compelling
' merchants and mechanicks to perform their reſpective duties; for,
' when ſuch men ſwerve from their duty, they throw this world into
' confuſion.

419. 'Day by day muſt the king, *though engaged in forenſick buſineſs*,
' conſider the great objects of publick meaſures, and inquire into the
' ſtate of his carriages, *elephants, horſes, and cars*, his conſtant revenues
' and neceſſary expenſes, his mines *of precious metals or gems*, and his
' treaſury:

420. 'Thus, bringing to a concluſion all theſe weighty affairs, and
' removing *from his realm and from himſelf* every taint of ſin, a king
' reaches the ſupreme path of beatitude.

CHAPTER

CHAPTER THE NINTH.

On the Same; and on the Commercial and Servile Claſſes.

1. 'I NOW will propound the immemorial duties of man and 'woman, who muſt both remain firm in the legal path, whether united 'or ſeparated.

2. 'Day and night muſt women be held by their protectors in a 'ſtate of dependence; but in *lawful and innocent* recreations, though 'rather addicted to them, they may be left at their own diſpoſal.

3. 'Their fathers protect them in childhood; their huſbands pro-'tect them in youth; their ſons protect them in age: a woman is 'never fit for independence.

4. 'Reprehenſible is the father, who gives not his daughter in mar-'riage at the proper time; and the huſband, who approaches not his 'wife in due ſeaſon; reprehenſible alſo is the ſon, who protects not his 'mother after the death of her lord.

5. 'Women muſt, above all, be reſtrained from the ſmalleſt illicit 'gratification; for, not being thus reſtrained, they bring ſorrow on 'both families:

6. 'Let

6. 'Let husbands consider this as the supreme law, ordained for all 'classes; and let them, how weak soever, diligently keep their wives 'under lawful restrictions;

7. 'For he, who preserves his wife *from vice*, preserves his offspring '*from suspicion of bastardy*, his ancient usages *from neglect*, his family '*from disgrace*, himself *from anguish*, and his duty *from violation*.

8. 'The husband, after conception by his wife, becomes himself an 'embryo, and is born a second time here below; for which reason the 'wife is called *jáyá*, since by her *(jáyaté)* he is born again:

9. 'Now the wife brings forth a son endued with similar qualities 'to those of the father; so that, with a view to an excellent offspring, 'he must vigilantly guard his wife.

10. 'No man, indeed, can wholly restrain women by violent mea-'sures; but, by these expedients, they may be restrained:

11. 'Let the husband keep his wife employed in the collection and 'expenditure of wealth, in purification and female duty, in the pre-'paration of daily food, and the superintendence of household utensils.

12. 'By confinement at home, even under affectionate and observant 'guardians, they are not secure; but those women are truly secure, 'who are guarded by their own good inclinations.

13. Drinking *spirituous liquor*, associating with evil persons, absence 'from her husband, rambling abroad, unseasonable sleep, and dwelling 'in the house of another, are six faults which bring infamy on a mar-'ried woman:

14. 'Such

14. 'Such *women* examine not beauty, nor pay attention to age; 'whether *their lover be* handſome or ugly, they think it is enough that 'he is a man, and purſue their pleaſures.

15. 'Through their paſſion for men, their mutable temper, their 'want of ſettled affection, and their perverſe nature (let them be 'guarded in this world ever ſo well) they ſoon become alienated from 'their huſbands.

16. 'Yet ſhould their huſbands be diligently careful in guarding 'them; though they well know the diſpoſition, with which the lord of 'creation formed them:

17. 'MENU allotted to ſuch women a love of their bed, of their 'ſeat, and of ornament, impure appetites, wrath, weak flexibility, 'deſire of miſchief, and bad conduct.

18. 'Women have no buſineſs with the texts of the *Véda*; thus is 'the law fully ſettled: having, therefore, no evidence *of law*, and no '*knowledge of* expiatory texts, ſinful women muſt be as foul as falſe-'hood itſelf; and this is a fixed rule.

19. 'To this effect many texts, which may ſhow their true diſpo-'ſition, are chanted in the *Védas:* hear now their expiation for ſin.

20. "That pure blood, which my mother defiled by adulterous de-"ſire, frequenting the houſes of other men, and violating her duty to "her lord, that blood may my father purify!" Such is the tenour 'of the holy text, *which her ſon, who knows her guilt, muſt pronounce* '*for her*;

21. ‘ *And* this expiation has been declared for every unbecoming ‘ thought, which enters her mind, concerning infidelity to her huſband; ‘ ſince that *is the beginning of* adultery.

22. ‘ Whatever be the qualities of the man, with whom a woman ‘ is united by lawful marriage, ſuch qualities even ſhe aſſumes; like a ‘ river *united* with the ſea.

23. ‘ ACSHAMA'LA', a woman of the loweſt birth, being thus united ‘ to VASISHT'HA, and SA'RANGÍ, being united to MANDAPA'LA, were ‘ entitled to very high honour:

24. ‘ Theſe, and other females of low birth, have attained eminence ‘ in this world by the reſpective good qualities of their lords.

25. ‘ Thus has the law, ever pure, been propounded for the civil ‘ conduct of men and women: hear, next, the laws concerning children, ‘ by obedience to which may happineſs be attained in this and the fu- ‘ ture life.

26. ‘ WHEN good women, united with huſbands in expectation of ‘ progeny, eminently fortunate and worthy of reverence, irradiate the ‘ houſes of their lords, between them and goddeſſes of abundance there ‘ is no diverſity whatever.

27. ‘ The production of children, the nurture of them, when pro- ‘ duced, and the daily ſuperintendence of domeſtick affairs are peculiar ‘ to the wife:

28. ‘ From the wife alone proceed offspring, good houſehold ma- ‘ nagement, ſolicitous attention, moſt exquiſite careſſes, and that hea-

‘ venly

'venly beatitude, which ſhe obtains for the manes of anceſtors, and for 'the *huſband* himſelf.

29. 'She, who deſerts not her lord, but keeps in ſubjection to him 'her heart, her ſpeech, and her body, ſhall attain his manſion in hea- 'ven, and, by the virtuous in this world, be called *Sádhwì, or good 'and faithful*;

30. 'But a wife, by diſloyalty to her huſband, ſhall incur diſgrace in 'this life, and be born *in the next* from the womb of a ſhakal, or be 'tormented with horrible diſeaſes, which puniſh vice.

31. 'LEARN now that excellent law, univerſally ſalutary, which 'was declared, concerning iſſue, by great and good ſages formerly 'born.

32. 'They conſider the male iſſue of a women as the ſon of the 'lord; but, on the ſubject of that lord, a difference of opinion is men- 'tioned in the *Véda*; ſome giving that name to the real procreator 'of the child, and others applying it to the married poſſeſſor of the 'woman.

33. 'The woman is conſidered in law as the field, and the man as 'the grain: now vegetable bodies are formed by the united operation 'of the ſeed and the field.

34. 'In ſome caſes the prolifick power of the male is chiefly diſ- 'tinguiſhed; in others, the receptacle of the female; but, when both 'are equal in dignity, the offspring is moſt highly eſteemed:

35. 'In

35. 'In general, as between the male and female powers of pro-
'creation, the male is held ſuperiour; ſince the offspring of all pro-
'creant beings is diſtinguiſhed by marks of the male power.

36. 'Whatever be the quality of ſeed, ſcattered in a field prepared
'in due ſeaſon, a plant of the ſame quality ſprings in that field, with
'peculiar viſible properties.

37. 'Certainly this earth is called the primeval womb of many beings;
'but the ſeed exhibits not in its vegetation any properties of the womb.

38. 'On earth here below, even in the ſame ploughed field, ſeeds
'of many different forms, having been ſown by huſbandmen in the
'proper ſeaſon, vegetate according to their nature:

39. 'Riceplants, mature in ſixty days, and thoſe, which require
'tranſplantation, *mudga*, *tila*, *máſha*, barley, leaks, and ſugarcanes,
'all ſpring up according to the ſeeds.

40. 'That one plant ſhould be ſown, and another produced, cannot
'happen: whatever ſeed may be ſown, even that produces its proper
'ſtem.

41. 'Never muſt it be ſown in another man's field by him, who has
'natural good ſenſe, who has been well inſtructed, who knows the
'*Véda* and its *Angas*, who deſires long life:

42. 'They, who are acquainted with paſt times, have preſerved, on
'this ſubject, holy ſtrains chanted by every breeze, *declaring*, that
"ſeed muſt not be ſown in the field of another man."

43. 'As

43. 'As the arrow of that hunter is vain, who ſhoots it into the 'wound, which another had made juſt before in the antelope, thus 'inſtantly periſhes the ſeed, which a man throws into the ſoil of 'another :

44. 'Sages, who know former times, conſider this earth *(Prĭt'hivì)* 'as the wife of king Prĭthu; and thus they pronounce cultivated 'land to be the property of him, who cut away the wood, *or who* '*cleared and tilled it*; and the antelope, of the firſt hunter, who mor-'tally wounded it.

45. 'Then only is a man perfect, when he conſiſts of *three perſons* '*united*, his wife, himſelf, and his ſon; and thus have learned *Bráhmens* 'announced this *maxim:* "The huſband is even one perſon with his "wife," *for all domeſtick and religious, not for all civil, purpoſes.*

46. 'Neither by ſale nor deſertion can a wife be releaſed from her 'huſband: thus we fully acknowledge the law enacted of old by the 'lord of creatures.

47. 'Once is the partition of an inheritance made; once is a damſel 'given in marriage; and once does a man ſay "I give:" theſe three 'are, by good men, done once for all *and irrevocably.*

48. 'As with cows, mares, female camels, ſlavegirls, milch buffalos, 'ſhegoats, and ewes, it is not the owner of the *bull or other* father, 'who owns the offspring, even thus is it with the wives of others.

49. 'They, who have no property in the field, but, having grain in 'their poſſeſſion, ſow it in ſoil owned by another, can receive no ad-'vantage whatever from the corn, which may be produced:

50. 'Should

50. ‘ Should a bull beget a hundred calves on cows not owned by
‘ his maſter, thoſe calves belong ſolely to the proprietors of the cows;
‘ and the ſtrength of the bull was waſted:

51. ‘ Thus men, who have no marital property in women, but ſow
‘ in the fields owned by others, may raiſe up fruit to the huſbands;
‘ but the procreator can have no advantage from it.

52. ‘ Unleſs there be a ſpecial agreement between the owners of the
‘ land and of the ſeed, the fruit belongs clearly to the landowner; for
‘ the receptacle is more important than the ſeed:

53. ‘ But the owners of the ſeed and of the ſoil may be conſidered in
‘ this world as joint owners of the crop, which they agree, by ſpecial
‘ compact in conſideration of the ſeed, to divide between them.

54. ‘ Whatever man owns a field, if ſeed, conveyed into it by water
‘ or wind, ſhould germinate, the plant belongs to the landowner: the
‘ mere ſower takes not the fruit.

55. ‘ Such is the law concerning the offspring of cows, and mares,
‘ of female camels, goats, and ſheep, of ſlave girls, hens, and milch
‘ buffalos, *unleſs there be a ſpecial agreement.*

56. ‘ THUS has the comparative importance of the ſoil and the ſeed
‘ been declared to you: I will next propound the law concerning
‘ women, who have no iſſue *by their huſbands.*

57. ‘ The wife of an elder brother is conſidered as mother in law to
‘ the younger; and the wife of the younger as daughter in law to the
‘ elder:

58. ‘ The

58. 'The elder brother, amoroufly approaching the wife of the 'younger, and the younger, careffing the wife of the elder, are both 'degraded, even though authorized *by the hufband or fpiritual guide,* 'except when fuch wife has no iffue.

59. 'On failure of iffue by the hufband, *if he be of the fervile clafs,* 'the defired offspring may be procreated, either by his brother or fome 'other *fapinda,* on the wife, who has been duly authorized:

60. 'Sprinkled with clarified butter, filent, in the night, let the 'kinfman thus appointed beget one fon, but a fecond by no means, on 'the widow *or childlefs wife:*

61. 'Some fages, learned in the laws concerning women, thinking 'it poffible, that the great object of that appointment may not be ob- 'tained *by the birth of a fingle fon,* are of opinion, that the wife and 'appointed kinfman may legally procreate a fecond.

62. 'The firft object of the appointment being obtained according 'to law, both *the brother and the widow* muft live together like a 'father and a daughter by affinity.

63. 'Either brother, appointed for this purpofe, who deviates from 'the ftrict rule, and acts from carnal defire, fhall be degraded, as hav- 'ing defiled the bed of his daughter in law or of his father.

64. 'By men of twiceborn claffes no widow, *or childlefs wife,* muft 'be authorized to conceive by any other than her lord; for they, who 'authorize her to conceive by any other, violate the primeval law.

65. 'Such

65. 'Such a commiſſion *to a brother or other near kinſman* is 'nowhere mentioned in the nuptial texts of the *Véda*; nor is 'the marriage of a widow even named in the laws concerning mar-'riage.

66. 'This practice, fit only for cattle, is reprehended by learned '*Bráhmens*; yet it is declared to have been the practice even of men, 'while VE'NA had ſovereign power:

67. 'He, poſſeſſing the whole earth, and *thence only called* the chief 'of ſage monarchs, gave riſe to a confuſion of claſſes, when his in-'tellect became weak through luſt.

68. 'Since his time the virtuous diſapprove of that man, who, 'through deluſion of mind, directs a widow *to receive the careſſes of* '*another* for the ſake of progeny.

69. 'The damſel, *indeed*, whoſe huſband ſhall die after troth verbally 'plighted, *but before conſummation*, his brother ſhall take in marriage 'according to this rule:

70. 'Having eſpouſed her in due form of law, ſhe being clad in a 'white robe, and pure in her moral conduct, let him approach her 'once in each proper ſeaſon, and until iſſue *be had*.

71. 'LET no man of ſenſe, who has once given his daughter to a 'ſuitor, give her again to another; for he, who gives away his daughter, 'whom he had before given, incurs the guilt and fine of ſpeaking 'falſely in a cauſe concerning mankind.

72. 'EVEN

72. 'EVEN though a man have married a young woman in legal 'form, yet he may abandon her, if he find her blemiſhed, afflicted 'with diſeaſe, or previouſly deflowered, and given to him with fraud:

73. 'If any man give a faulty damſel in marriage, without diſ-'cloſing her blemiſh, the huſband may annul that act of her illminded 'giver.

74. 'SHOULD a man have buſineſs abroad, let him aſſure a fit main-'tenance to his wife, and then reſide *for a time* in a foreign country; 'ſince a wife, even though virtuous, may be tempted to act amiſs, if 'ſhe be diſtreſſed by want of ſubſiſtence:

75. 'While her huſband, having ſettled her maintenance, reſides 'abroad, let her continue firm in religious auſterities; but, if he 'leave her no ſupport, let her ſubſiſt by *ſpinning and other* blameleſs 'arts.

76. 'If he live abroad on account of ſome ſacred duty, let her wait 'for him eight years; if on account of knowledge or fame, ſix; if on 'account of pleaſure, three: *after thoſe terms have expired, ſhe muſt fol-'low him.*

77. 'FOR a whole year let a huſband bear with his wife, who treats 'him with averſion; but, after a year, let him deprive her of her ſe-'parate property, and ceaſe to cohabit with her.

78. 'She, who neglects her lord, though addicted to gaming, fond of 'ſpirituous liquors, or diſeaſed, muſt be deſerted for three months, and 'deprived of her ornaments and houſehold furniture:

79. ‘ But ſhe, who is averſe from a mad huſband, or a deadly ſinner,
‘ or an eunuch, or one without manly ſtrength, or one afflicted with
‘ ſuch maladies as puniſh crimes, muſt neither be deſerted nor ſtripped
‘ of her property.

80. ‘ A WIFE, who drinks any ſpirituous liquors, who acts immo-
‘ rally, who ſhows hatred *to her lord*, who is *incurably* diſeaſed, who is
‘ miſchievous, who waſtes his property, may at all times be ſuperſeded
‘ by another wife.

81. ‘ A barren wife may be ſuperſeded by another in the eighth year:
‘ ſhe, whoſe children are all dead, in the tenth; ſhe, who brings forth
‘ *only* daughters, in the eleventh; ſhe, who ſpeaks unkindly, without
‘ delay;

82. ‘ But ſhe, who, though afflicted with illneſs, is beloved and vir-
‘ tuous, muſt never be diſgraced, though ſhe may be ſuperſeded by
‘ another wife with her own conſent.

83. ‘ If a wife, legally ſuperſeded, ſhall depart in wrath from the
‘ houſe, ſhe muſt either inſtantly be confined, or abandoned in the
‘ preſence of the whole family:

84. ‘ But ſhe, who, having been forbidden, addicts herſelf to intoxi-
‘ cating liquor even at jubilees, or mixes in crowds at theatres, muſt
‘ be fined ſix *racticás* of gold.

85. ‘ WHEN twiceborn men take wives, both of their own claſs
‘ and others, the precedence, honour, and habitation of thoſe wives,
‘ muſt be ſettled according to the order of their claſſes:

86. ‘ To

86. ‘ To all ſuch married men, the wives of the ſame claſs only ‘ (not wives of a different claſs by any means) muſt perform the duty ‘ of perſonal attendance, and the daily buſineſs relating to acts of re- ‘ ligion;

87. ‘ For he, who fooliſhly cauſes thoſe duties to be performed by ‘ any other than his wife of the ſame claſs, when ſhe is near at hand, ‘ has been immemorially conſidered as a mere *Chandála* begotten on a ‘ *Bráhmenì*.

88. ‘ To an excellent and handſome youth of the ſame claſs, let ‘ every man give his daughter in marriage, according to law; even ‘ though ſhe have not attained her age *of eight years:*

89. ‘ *But* it is better, that the damſel, though marriageable, ſhould ‘ ſtay at home till her death, than that he ſhould ever give her in mar- ‘ riage to a bridegroom void of excellent qualities.

90. ‘ Three years let a damſel wait, though ſhe be marriageable; but, ‘ after that term, let her chuſe for herſelf a bridegroom of equal rank:

91. ‘ If, not being given in marriage, ſhe chuſe her bridegroom, ‘ neither ſhe, nor the youth choſen, commits any offence;

92. ‘ But a damſel, thus electing her huſband, ſhall not carry with ‘ her the ornaments, which ſhe received from her father, nor thoſe ‘ given by her mother or brethren: if ſhe carry them away, ſhe com- ‘ mits theft.

93. ‘ He, who takes to wife a damſel of full age, ſhall not give a ‘ nuptial preſent to her father; ſince the father loſt his dominion over

'over her, by detaining her at a time, when ſhe might have been a 'parent.

94. 'A man, aged thirty years, may marry a girl of twelve, *if he find 'one* dear to his heart; or a man of twenty-four years, a damſel of 'eight: but, if *he finiſh his ſtudentſhip earlier*, *and* the duties *of his next 'order* would otherwiſe be impeded, let him marry immediately.

95. 'A wife, given by the gods, *who are named in the bridal texts*, let 'the huſband receive and ſupport conſtantly, if ſhe be virtuous, though 'he married her not from inclination: ſuch conduct will pleaſe the gods.

96. 'To be mothers, were women created; and to be fathers, men; 'religious rites, therefore are ordained in the *Véda* to be performed *by 'the huſband* together with the wife.

97. 'If a nuptial gratuity has actually been given to a damſel, and 'he, who gave it, ſhould die *before marriage*, the damſel ſhall be mar-'ried to his brother, if ſhe conſent;

98. 'But even a man of the ſervile claſs ought not to receive a 'gratuity, when he gives his daughter in marriage; ſince a father, who 'takes a fee *on that occaſion*, tacitly ſells his daughter.

99. 'Neither ancients nor moderns, who were good men, have ever 'given a damſel in marriage, after ſhe had been promiſed to another 'man;

100. 'Nor, even in former creations, have we heard *the virtuous 'approve* the tacit ſale of a daughter for a price, under the name of a 'nuptial gratuity.

101. "Let

101. "Let mutual fidelity continue till death:" this, in few words, ' may be confidered as the fupreme law between hufband and wife.

102. 'Let a man and woman, united by marriage, conftantly ' beware, left, at any time difunited, they violate their mutual fide- ' lity.

103. 'Thus has been declared to you the law, abounding in the ' pureft affection, for the conduct of man and wife; together with ' the practice of raifing up offspring *to a hufband of the fervile ' clafs* on failure *of iffue by him begotten*: learn now the law of inheri- ' tance.

104. 'AFTER the death of the father and the mother, the brothers, ' being affembled, may divide among themfelves the paternal *and ma- ' ternal* eftate; but they have no power over it, while their parents ' live, *unlefs the father chufe to diftribute it*.

105. 'The eldeft brother may take entire poffeffion of the patri- ' mony; and the others may live under him, as *they lived* under their ' father, *unlefs they chufe to be feparated*.

106. 'By the eldeft, at the moment of his birth, the father, having ' begotten a fon, difcharges his debt to his own progenitors; the eldeft ' fon, therefore, ought *before partition* to manage the whole patri- ' mony:

107. 'That fon alone, by whofe birth he difcharges his debt, and ' through whom he attains immortality, was begotten from a fenfe of ' duty: all the reft are confidered by the wife as begotten from love ' of pleafure.

108. 'Let

108. 'Let the father alone ſupport his ſons; and the firſt born, his
' younger brothers; and let them behave to the eldeſt, according to
' law, as children *ſhould behave* to their father.

109. 'The firſt born, *if virtuous*, exalts the family, or, *if vitious*,
' deſtroys it: the firſt born is in this world the moſt reſpectable; and
' the good never treat him with diſdain.

110. 'If an elder brother act, as an elder brother ought, he is *to be*
' *revered* as a mother, as a father; and, even if he have not the be-
' haviour of a good elder brother, he ſhould be reſpected as a *maternal*
' *uncle, or other* kinſman.

111. 'Either let them thus live together, or, if they deſire *ſeparately*
' *to perform* religious rites, let them live apart; ſince religious duties
' are multiplied in ſeparate houſes, their ſeparation is, therefore, legal
' *and even laudable*.

112. 'The portion deducted for the eldeſt is a twentieth part *of the*
' *heritage*, with the beſt of all the chattels; for the middlemoſt, half of
' that, *or a fortieth*; for the youngeſt, a quarter of it, *or an eightieth*.

113. 'The eldeſt and youngeſt reſpectively take their juſt mentioned
' portions; and, if there be more than one between them, each of the
' intermediate ſons has the mean portion, *or the fortieth*.

114. 'Of all the goods collected, let the firſt born, *if he be tranſ-*
' *cendantly learned and virtuous*, take the beſt article, whatever is moſt
' excellent in its kind, and the beſt of ten *cows or the like*:

115. 'But, among brothers equally ſkilled in performing their ſeve-
' ral duties, there is no deduction of the beſt in ten, *or the moſt excellent*
chattel;

' *chattel*; though ſome trifle, as a mark of greater veneration, ſhould ' be given to the firſt born.

116. ' If a deduction be thus made, let equal ſhares of the reſidue be ' aſcertained *and received*; but, if there be no deduction, the ſhares ' muſt be diſtributed in this manner:

117. ' Let the eldeſt have a double ſhare, and the next born, a ſhare ' and a half, *if they clearly ſurpaſs the reſt in virtue and learning*; the ' younger ſons muſt have each a ſhare: *if all be equal in good qualities,* ' *they muſt all take ſhare and ſhare alike*.

118. ' To the *unmarried* daughters *by the ſame mother*, let their bro- ' thers give portions out of their own allotments reſpectively, *according* ' *to the claſſes of their ſeveral mothers:* let each give a fourth part of ' his own diſtinct ſhare; and they, who refuſe to give it, ſhall be de- ' graded.

119. ' Let them never divide *the value of* a ſingle goat or ſheep, or ' a ſingle beaſt with uncloven hoofs: a ſingle goat or ſheep *remaining* ' *after an equal diſtribution* belongs to the firſt born.

120. ' Should a younger brother *in the manner before mentioned* have ' begotten a ſon on the wife of his *deceaſed* elder brother, the diviſion ' muſt then be made equally *between that ſon, who repreſents the de-* ' *ceaſed, and his natural father:* thus is the law ſettled.

121. ' The repreſentative is not *ſo far* wholly ſubſtituted by law in ' the place of the *deceaſed* principal, *as to have the portion of an elder ſon*; ' and the principal became a father in conſequence of the procreation

' *by*

' *by his younger brother*; the ſon, therefore, is entitled by law to an ' equal ſhare, *but not to a double portion.*

122. ' A younger ſon being born of a firſt married wife, after an ' elder ſon had been born of a wife laſt married, *but of a lower claſs*, ' it may be a doubt in that caſe, how the diviſion ſhall be made:

123. ' Let the ſon, born of the elder wife, take one moſt excellent ' bull deducted from the inheritance; the next excellent bulls are for ' thoſe, who *were born firſt, but* are inferior on account of their mothers, ' *who were married laſt.*

124. ' A ſon, indeed, who was firſt born, and brought forth by the ' wife firſt married, may take, *if learned and virtuous*, one bull and ' fifteen cows; and the other ſons may then take, each in right of his ' ſeveral mother: ſuch is the fixed rule.

125. ' As between ſons, born of wives equal in their claſs *and* with- ' out *any other* diſtinction, there can be no ſeniority in right of the ' mother; but the ſeniority ordained by law, is according to the birth.

126. ' The right of invoking INDRA by the texts, called *ſwabráh-* ' *manyá*, depends on actual priority of birth; and of twins alſo, *if any* ' *ſuch be conceived* among *different* wives, the eldeſt is he, who was firſt ' actually born.

127. ' HE, who has no ſon, may appoint his daughter in this man- ' ner to raiſe up a ſon for him, *ſaying:* " the male child, who ſhall be " born from her in wedlock, ſhall be mine for the purpoſe of perform- " ing my obſequies."

128. ' In

128. ‘ In this manner DACSHA himſelf, lord of created beings, ‘ anciently appointed all his *fifty* daughters to raiſe up ſons to him, for ‘ the ſake of multiplying his race :

129. ‘ He gave ten to DHERMA, thirteen to CASYAPA, twenty-ſeven ‘ to SÓMA, king *of Bráhmens and medical plants*, after doing honour to ‘ them with an affectionate heart.

130. ‘ THE ſon of a man is even as himſelf; and as the ſon, ſuch is ‘ the daughter *thus appointed:* how then, *if he have no ſon*, can any in- ‘ herit his property, but a daughter, who is cloſely united with his own ‘ ſoul ?

131. ‘ Property, given to the mother on her marriage, is inherited ‘ by her *unmarried* daughter; and the ſon of a daughter, *appointed in* ‘ *the manner juſt mentioned*, ſhall inherit the whole eſtate of her father, ‘ who leaves no ſon *by himſelf begotten :*

132. ‘ The ſon, however, of *ſuch* a daughter, who ſucceeds to all the ‘ wealth of her father dying without a ſon, muſt offer two funeral ‘ cakes, one to his own father, and one to the father of his mother.

133. ‘ Between a ſon's ſon and the ſon of *ſuch* a daughter, there is no ‘ difference in law; ſince their father and mother both ſprang from ‘ the body of the ſame man :

134. ‘ But, a daughter having been appointed to produce a ſon for ‘ her father, and a ſon, *begotten by himſelf*, being afterwards born, the di- ‘ viſion of the heritage muſt in that caſe be equal; ſince there is no ‘ right of primogeniture for a woman.

135. 'Should a daughter, thus appointed to raiſe up a ſon for her 'father, die by any accident without a ſon, the huſband of that 'daughter may, without heſitation, poſſeſs himſelf of her property.

136. 'By that male child, whom a daughter thus appointed, either 'by an implied intention or a plain declaration, ſhall produce from an 'huſband of an equal claſs, the maternal grandfather becomes in law 'the father of a ſon: let that ſon give the funeral cake and poſſeſs the 'inheritance.

137. 'By a ſon, a man obtains victory over all people; by a ſon's 'ſon, he enjoys immortality; and, afterwards, by the ſon of that grand-'ſon, he reaches the ſolar abode.

138. 'Since the ſon *(tráyaté)* delivers his father from the hell named '*put*, he was, therefore, called *puttra* by BRAHMA' himſelf:

139. 'Now between the ſons of his ſon and of his daughter *thus ap-'pointed*, there ſubſiſts in this world no difference; for even the ſon of '*ſuch* a daughter delivers him in the next, like the ſon of his ſon.

140. 'Let the ſon of ſuch a daughter offer the firſt funeral cake to 'his mother; the ſecond to her father; the third, to her paternal 'grandfather.

141. 'OF the man, to whom a ſon has been given, *according to a 'ſubſequent law*, adorned with every virtue, that ſon ſhall take *a fifth 'or ſixth part of* the heritage, though brought from a different family.

142. 'A given ſon muſt never claim the family and eſtate of his 'natural father: the funeral cake follows the family and eſtate; but

'of

'of him, who has given away his ſon, the funeral oblation is ex-'tinct.

143. 'THE ſon of a wife, not authorized to have iſſue by another, 'and the ſon begotten, by the brother of the huſband, on a wife, who 'has a ſon then living, are both unworthy of the heritage; one being 'the child of an adulterer, and the other produced through mere luſt.

144. 'Even the ſon of a wife duly authorized, not begotten accord-'ing to the law *already propounded*, is unworthy of the paternal eſtate; 'for he was procreated by an outcaſt:

145. 'But the ſon *legally* begotten on a wife, authorized for the 'purpoſe *before mentioned*, may inherit *in all reſpects*, *if he be virtuous* '*and learned*, as a ſon begotten by the huſband; ſince *in that caſe* the 'ſeed and the produce belong of right to the owner of the field.

146. 'He, who keeps the *fixed and moveable* eſtate of his *deceaſed* 'brother, maintains the widow, and raiſes up a ſon to that brother, 'muſt give to that ſon, *at the age of fifteen*, the whole of his brother's '*divided* property.

147. 'Should a wife, even though legally authorized, produce a 'ſon by the brother, or any other *ſapinda*, of her huſband, that ſon, 'if begotten with *amorous embraces*, *and tokens of* impure deſire, the 'ſages proclaim baſeborn and incapable of inheriting.

148. 'THIS law, *which has preceded*, muſt be underſtood of a diſtri-'bution among ſons begotten on women of the ſame claſs: hear now 'the law concerning *ſons by* ſeveral women of different claſſes.

149. 'If

149. 'If there be four wives of a *Bráhmen* in the direct order of the 'classes, and sons are produced by them all, this is the rule of partition '*among them:*

150. 'The chief servant in husbandry, the bull kept for impregnat-'ing cows, the riding horse or carriage, the *ring and other* ornaments, 'and the principal messuage, shall be deducted from the inheritance 'and given to the *Bráhmen* son, together with a larger share by way 'of preeminence.

151. 'Let the *Bráhmen* take three shares of the residue; the son of 'the *Cshatriyá* wife, two shares; the son of the *Vaisyá* wife, a share and 'a half; and the son of the *Súdra* wife, may take one share.

152. 'Or, *if no deduction be made*, let some person learned in the 'law divide the whole collected estate into ten parts, and make a 'legal distribution by this *following* rule:

153. 'Let the son of the *Bráhmanì* take four parts; the son of the '*Cshatriyá*, three; let the son of the *Vaisyá* have two parts; let the 'son of the *Súdra* take a single part, *if he be virtuous.*

154. 'But, whether the *Bráhmen* have sons, or have no sons, *by* '*wives of the three first classes*, no more than a tenth part must be 'given to the son of a *Súdra*.

155. 'The son of a *Bráhmen*, a *Cshatriyá*, or a *Vaisyá* by a wo-'man of the servile class, shall inherit no part of the estate, *unless he* '*be virtuous*; *nor jointly with other sons, unless his mother was lawfully* '*married:* whatever his father may give him, let that be his own.

156. 'All

156. 'All the ſons of twiceborn men, produced by wives of the 'ſame claſs, muſt divide the heritage equally, after the younger bro- 'thers have given the firſt born his deducted allotment.

157. 'For a *Súdra* is ordained a wife of his own claſs, *and* no other: 'all, produced by her, ſhall have equal ſhares, though ſhe have a hun- 'dred ſons.

158. 'Of the twelve ſons of men, whom Menu, ſprung from the 'Self-exiſtent, has named, ſix are kinſmen and heirs; ſix, not heirs, '*except to their own fathers*, but kinſmen.

159. 'The ſon begotten by a man himſelf *in lawful wedlock*, the ſon 'of his wife begotten *in the manner before deſcribed*, a ſon given *to him*, 'a ſon made *or adopted*, a ſon of concealed birth, *or whoſe real father* '*cannot be known*, and a ſon rejected *by his natural parents*, are the ſix 'kinſmen and heirs:

160. 'The ſon of a young woman *unmarried*, the ſon of a preg- 'nant bride, a ſon bought, a ſon by a twice married woman, a ſon ſelf- 'given, and a ſon by a *Súdra*, are the ſix kinſmen, but not heirs *to* '*collaterals*.

161. 'Such advantage, as a man would gain, who ſhould attempt 'to paſs deep water in a boat made of woven reeds, that father obtains, 'who paſſes the gloom of death, leaving only contemptible ſons, *who* '*are the eleven, or at leaſt the ſix, laſt mentioned*.

162. If the two heirs of one man be the ſon of his own body and a 'ſon of his wife by a kinſman, *the former of whom was begotten after* '*his recovery from an illneſs thought incurable*, each of the ſons, ex- 'cluſively

'clusively of the other, shall succeed to the whole estate of his natural 'father.

163. 'The son of his own body is the sole heir to his estate, but, that 'all evil may be removed, let him allow a maintenance to the rest;

164. 'And, when the son of the body has taken an account of the 'paternal inheritance, let him give a sixth part of it to the son of the 'wife begotten by a kinsman, *before his father's recovery*; or a fifth 'part, *if that son be eminently virtuous.*

165. 'The son of the body, and the son of the wife may succeed '*immediately* to the paternal estate *in the manner just mentioned*; but the 'ten other sons can only succeed in order to the family duties and to 'their share of the inheritance, *those last named being excluded by any one* '*of the preceding.*

166. 'HIM, whom a man has begotten on his own wedded wife, 'let him know to be the first in rank, as the son of his body.

167. 'He, who was begotten, according to law, on the wife of a 'man deceased, or impotent, or disordered, after due authority given 'to her, is called the lawful son of the wife.

168. 'He, whom his father, or mother *with her husband's assent*, 'gives to another as his son, provided that the donee have no issue, if 'the boy be of the same class and affectionately disposed, is considered 'as a son given, *the gift being confirmed* by *pouring* water.

169. 'He is considered as a son made *or adopted*, whom a man takes 'as his own son, the boy being equal in class, endued with filial virtues, 'acquainted

'acquainted with *the* merit *of performing obſequies to his adopter*, and
'with *the* ſin *of omitting them*.

170. 'In whoſe manſions ſoever a male child ſhall be brought forth *by a married woman, whoſe huſband has long been abſent*, if the real father cannot be diſcovered, *but if it be probable that he was of an equal claſs*, that child belongs to the lord of the *unfaithful* wife, and is called a ſon of concealed birth in his manſion.

171. 'A boy, whom a man receives as his own ſon, after he has been deſerted *without juſt cauſe* by his parents, or by either of them, *if one be dead*, is called a ſon rejected.

172. 'A ſon, whom the daughter of any man privately brings forth in the houſe of her father, if ſhe *afterwards* marry her lover, is deſcribed as a ſon begotten on an unmarried girl.

173. 'If a pregnant young woman marry, whether her pregnancy be known or unknown, the male child in her womb belongs to the bridegroom, and is called a ſon received with his bride.

174. 'He is called a ſon bought, whom a man, for the ſake of having a ſon *to perform his obſequies*, purchaſes from his father and mother, whether the boy be equal or unequal *to himſelf in good qualities, for in claſs all adopted ſons muſt be equal*.

175. 'He, whom a woman, éither forſaken by her lord or a widow, conceived by a ſecond huſband, whom ſhe took by her own deſire, *though againſt law*, is called the ſon of a woman twice married:

176. 'If,

176. 'If, *on her ſecond marriage*, ſhe be ſtill a virgin, or if ſhe left 'her huſband under the age of puberty and return to him at his full 'age, ſhe muſt again perform the nuptial ceremony, *either* with her 'ſecond, *or her young and deſerted*, huſband.

177. 'He, who has loſt his parents, or been abandoned *by them* 'without juſt cauſe, and offers himſelf to a man *as his ſon*, is called a 'ſon ſelfgiven.

178. 'A ſon, begotten through luſt on a *Súdra* by a man of the 'prieſtly claſs, is even as a corpſe, though alive, and is thence called 'in law a living corpſe:

179. 'But a ſon, begotten by a man of the ſervile claſs on his female 'ſlave, or on the female ſlave of his male ſlave, may take a ſhare of the 'heritage, if permitted *by the other ſons:* thus is the law eſtabliſhed.

180. 'Theſe eleven ſons (the ſon of the wife, and the reſt as enu-'merated) are allowed by wiſe legiſlators to be ſubſtitutes *in order* for 'ſons of the body, for the ſake of preventing a failure of obſequies;

181. 'Though ſuch, as are called ſons for that purpoſe, but were 'produced from the manhood of others, belong in truth to the father, 'from whoſe manhood they ſeverally ſprang, and to no other, *except* '*by a juſt fiction of law*.

182. 'If, among ſeveral brothers of the whole blood, one have a ſon 'born, Menu pronounces them all fathers of a male child by means 'of that ſon; *ſo that, if ſuch nephew would be the heir, the uncles have no* '*power to adopt ſons:*

183. '*Thus*

183. '*Thus* if, among all the wives of the ſame huſband, one bring 'forth a male child, MENU has declared them all, by means of that 'ſon, to be mothers of male iſſue.

184. 'On failure of the beſt, *and* of the *next* beſt, *among thoſe twelve 'ſons,* let the inferiour in order take the heritage; but, if there be 'many of equal rank, let all be ſharers of the eſtate.

185. 'Not brothers, nor parents, but ſons, *if living, or their male 'iſſue,* are heirs to the deceaſed, but of him, who leaves no ſon, *nor 'a wife, nor a daughter,* the father ſhall take the inheritance; and, *if 'he leave neither father, nor mother,* the brothers.

186. 'To three *anceſtors* muſt water be given at their obſequies; for 'three *(the father, his father, and the paternal grandfather)* is the 'funeral cake ordained: the fourth *in deſcent* is the giver *of oblations 'to them, and their heir, if they die without nearer deſcendants*; but the 'fifth has no concern *with the gift of the funeral cake.*

187. 'To the neareſt *ſapinda, male or female,* after him in the third 'degree, the inheritance *next* belongs; then, on failure of *ſapindas* and 'of their iſſue, the *ſamánódaca,* or diſtant kinſman, ſhall be the heir; 'or the ſpiritual preceptor, or the pupil, *or the fellowſtudent, of the 'deceaſed:*

188. 'On failure of all thoſe, the lawful heirs are ſuch *Bráh'mens,* as have read the three *Védas,* as are pure *in body and mind,* as 'have ſubdued their paſſions; *and they muſt conſequently offer the 'cake:* thus the rites of obſequies cannot fail.

 189. 'The

189. 'The property of a *Bráhmen* ſhall never be taken *as an eſcheat*
'by the king; this is a fixed law: but the wealth of the other claſſes,
'on failure of all heirs, the king may take.

190. 'If the widow of a man, who died without a ſon, raiſe up a
'ſon to him by one of his kinſmen, let her deliver to that ſon, *at his*
'*full age* the collected eſtate of the deceaſed, whatever it be.

191. 'If two ſons, begotten by two *ſucceſſive huſbands, who are*
'*both dead,* contend for their property, then in the hands of their
'mother, let each take, excluſively of the other, his own father's
'eſtate.

192. 'On the death of the mother, let all the uterine brothers and
'the uterine ſiſters, *if unmarried*, equally divide the maternal eſtate:
'*each married ſiſter ſhall have a fourth part of a brother's allotment.*

193. 'Even to the daughters of thoſe daughters, it is fit, that ſome-
'thing ſhould be given, from the aſſets of their maternal grandmother,
'on the ſcore of natural affection.

194. 'What was given before the nuptial fire, what was given on
'the bridal proceſſion, what was given in token of love, and what was
'received from a brother, a mother, or a father, are conſidered as
'the ſixfold *ſeparate* property of a *married* woman:

195. 'What ſhe received after marriage from the family of her huſ-
'band, and what her affectionate lord may have given her, ſhall be in-
'herited, even if ſhe die in his lifetime, by her children.

196. 'It

196. ‘ It is ordained, that the property of a woman, married by the
‘ ceremonies called *Bráhma*, *Daiva*, *A'rſha*, *Gándharva*, or *Prájápatya*,
‘ ſhall go to her huſband, if ſhe die without iſſue.

197. ‘ But her wealth given on the marriage called *A'ſura*, or on
‘ either of the *two* others, is ordained, on her death without iſſue, to
‘ become the property of her father and mother.

198. ‘ If a widow, *whoſe huſband had other wives of different claſſes*,
‘ ſhall have received wealth at any time *as a gift* from her father, *and*
‘ *ſhall die without iſſue*, it ſhall go to the daughter of the *Bráhmaní*
‘ wife, or to the iſſue of that daughter.

199. ‘ A woman ſhould never make a hoard from the goods of her
‘ kindred, *which are* common to *her and* many ; or even from the pro-
‘ perty of her lord, without his aſſent.

200. ‘ Such ornamental apparel, as women wear during the lives of
‘ their huſbands, the heirs of thoſe huſbands ſhall not divide among
‘ themſelves : they, who divide it among themſelves, fall deep *into*
‘ *ſin*.

201. ‘ Eunuchs and outcaſts, perſons born blind or deaf, madmen,
‘ idiots, the dumb, and ſuch as have loſt the uſe of a limb, are excluded
‘ from a ſhare of the heritage ;

202. ‘ But it is juſt, that the heir, who knows his duty, ſhould give
‘ all of them food and raiment *for life* without ſtint, according to the
‘ beſt of his power : he, who gives them nothing, ſinks aſſuredly *to a*
‘ *region of puniſhment*.

203. ‘ If

203. ‘ If the eunuch and the reſt ſhould at any time deſire to marry, ‘ *and if the wife of the eunuch ſhould raiſe up a ſon to him by a man legally* ‘ *appointed, that ſon and* the iſſue of ſuch, as have children, ſhall be ‘ capable of inheriting.

204. ‘ After the death of the father, if the eldeſt brother acquire ‘ *wealth by his own efforts before partition*, a ſhare of that *acquiſition* ſhall ‘ go to the younger brothers, if they have made a due progreſs in ‘ learning;

205. ‘ And if all of them, being unlearned, acquire property *before* ‘ *partition* by their own labour, there ſhall be an equal diviſion of that ‘ property *without regard to the firſt born*; for it was not the wealth of ‘ their father: this rule is clearly ſettled.

206. ‘ Wealth, however, acquired by learning, belongs excluſively ‘ to any one *of them, who acquired it*; ſo does any thing given by a ‘ friend, received on account of marriage, or preſented as a mark of ‘ reſpect to a gueſt.

207. ‘ If any one of the brethren has a competence from his own ‘ occupation, and wants not the property *of his father*, he may debar ‘ himſelf from his own ſhare, ſome trifle being given him as a conſi- ‘ deration, *to prevent future ſtrife*.

208. ‘ What a brother has acquired by labour or ſkill, without uſing ‘ the patrimony, he ſhall not give up without his aſſent; for it was ‘ gained by his own exertion:

209. ‘ And if a ſon, by his own efforts, recover *a debt or property* ‘ *unjuſtly detained*, which could not be recovered before *by his father*, ‘ he

'he ſhall not, unleſs by his free will, put it into parcenary with his 'brethren, ſince in fact it was acquired by himſelf.

210. If brethren, once divided and living again together as parceners, make a ſecond partition, the ſhares muſt in that caſe be equal; 'and the firſt born ſhall have no right of deduction.

211. 'Should the eldeſt or youngeſt of ſeveral brothers be deprived 'of his ſhare *by a civil death on his entrance into the fourth order*, or 'ſhould any one of them die, his *veſted intereſt in a* ſhare ſhall not 'wholly be loſt;

212. 'But, *if he leave neither ſon, nor wife, nor daughter, nor father, nor* '*mother*, his uterine brothers and ſiſters, and ſuch brothers as were re-'united after a ſeparation, ſhall aſſemble and divide his ſhare equally.

213. 'Any eldeſt brother, who from avarice ſhall defraud his 'younger brother, ſhall forfeit *the honours of* his primogeniture, be de-'prived of his own ſhare, and pay a fine to the king.

214. 'All thoſe brothers, who are addicted to any vice, loſe their 'title to the inheritance: the firſt born ſhall not appropriate it to him-'ſelf, but ſhall give ſhares to the youngeſt, *if they be not vitious*.

215. 'If, among undivided brethren *living* with their father, there 'be a common exertion for common gain, the father ſhall never make 'an unequal diviſion among them, *when they divide their families*.

216. 'A ſon, born after a diviſion *in the lifetime of his father*, ſhall 'alone inherit the patrimony, or ſhall have a ſhare of it with the di-'vided brethren, if they return and unite themſelves with him.

217. Of

217. 'Of a ſon, dying childleſs *and leaving no widow*, the *father* '*and* mother ſhall take the eſtate; and, the mother alſo being dead, 'the paternal *grandfather and* grandmother ſhall take the heritage *on* '*failure of brothers and nephews.*

218. 'When all the debts and wealth have been juſtly diſtributed 'according to law, any property, that may afterwards be diſcovered, 'ſhall be ſubject to a ſimilar diſtribution.

219. 'Apparel, carriages, or riding horſes, and ornaments *of ordinary* '*value, which any of the heirs had uſed by conſent before partition*, dreſſed 'rice, water *in a well or ciſtern*, female ſlaves, family prieſts, or ſpiri-'tual counſellors, and paſture ground for cattle, the wiſe have de-'clared indiviſible, *and ſtill to be uſed as before.*

220. 'Thus have the laws of inheritance, and the rule for the con-'duct of ſons (whether the ſon of the wife or others) been expound-'ed to you in order: learn at preſent the law concerning games of 'chance.

221. 'Gaming, either with inanimate or with animated things, 'let the king exclude wholly from his realm: both thoſe modes of play 'cauſe deſtruction to princes.

222. 'Such play with dice *and the like*, or by matches *between rams* '*and cocks*, amounts to open theft; and the king muſt ever be vigilant 'in ſuppreſſing both *modes of play*:

223. 'Gaming with lifeleſs things is known among men by the 'name of *dyúta*; but *ſamáhwaya* ſignifies a match between living crea-'tures.

224. 'Let

224. 'Let the king punish corporally at discretion both the gamester and the keeper of a gaming house, whether they play with inanimate or animated things; and men of the servile class, who wear the *string and other* marks of the twiceborn.

225. 'Gamesters, publick dancers and singers, revilers of scripture, open hereticks, men who perform not the duties of their several classes, and sellers of spirituous liquor, let him instantly banish from the town:

226. 'Those wretches, lurking like unseen thieves in the dominion of a prince, continually harass his good subjects with their vitious conduct.

227. 'Even in a former creation was this *vice of* gaming found a great provoker of enmity: let no sensible man, therefore, addict himself to play even for his amusement:

228. 'On the man addicted to it, either privately or openly, let punishment be inflicted at the discretion of the king.

229. 'A MAN of the military, commercial, or servile class, who cannot pay a fine, shall discharge the debt by his labour: a priest shall discharge it by little and little.

230. 'For women, children, persons of crazy intellect, the old, the poor, and the infirm, the king shall order punishment with a small whip, a twig, or a rope.

231. 'THOSE ministers, who are employed in publick affairs, and, inflamed by the blaze of wealth, mar the business of any person concerned, let the king strip of all their property.

232. 'Such,

232. 'Such, as forge royal edicts, cause dissentions among the great 'ministers, or kill women, priests, or children, let the king put to 'death; and such, as adhere to his enemies.

233. 'Whatever business has at any time been transacted conformably to law, let him consider as finally settled, and refuse to unravel;

234. 'But whatever business has been concluded illegally by his 'ministers or by a judge, let the king himself reexamine; and let 'him fine them each a thousand *panas*.

235. 'The slayer of a priest, a soldier or merchant drinking arak, 'or a priest drinking arak, mead, or rum, he, who steals the gold of a 'priest, and he, who violates the bed of his *natural or spiritual* father, 'are all to be considered respectively as offenders in the highest degree, '*except those, whose crimes are not fit to be named:*

236. 'On such of those four, as have not actually performed an expiation, let the king legally inflict corporal punishment, together 'with a fine.

237. 'For violating the paternal bed, let *the mark of* a female part 'be impressed *on the forehead with hot iron*; for drinking spirits, a vintner's flag; for stealing sacred gold, a dog's foot; for murdering a 'priest, *the figure of* a headless corpse:

238. 'With none to eat with them, with none to sacrifice with 'them, with none to read with them, with none to be allied by marriage to them, abject and excluded from all social duties, let them 'wander over this earth:

239. 'Branded

239. 'Branded with *indelible* marks, they ſhall be deſerted by 'their paternal and maternal relations, treated by none with af- 'fection, received by none with reſpect: ſuch is the ordinance of 'MENU.

240. '*Criminals of* all the claſſes, having performed an expiation, as 'ordained by law, ſhall not be marked on the forehead, but con- 'demned to pay the higheſt fine:

241. 'For crimes by a prieſt, *who had a good character before his of- 'fence*, the middle fine ſhall be ſet on him; or, *if his crime was pre- 'meditated*, he ſhall be baniſhed from the realm, *taking* with *him* his 'effects and his family;

242. 'But men of the other claſſes, who have committed thoſe 'crimes, *though without premeditation*, ſhall be ſtripped of all their poſ- 'ſeſſions; and, if their offence was premeditated, ſhall be corporally, 'or even capitally, puniſhed, *according to circumſtances*.

243. 'LET no virtuous prince appropriate the wealth of a criminal 'in the higheſt degree; for he, who appropriates it through covetouſ- 'neſs, is contaminated with the ſame guilt:

244. 'Having thrown ſuch a fine into the waters, let him offer it to 'VARUNA; or let him beſtow it on ſome prieſt of eminent learning in 'the ſcriptures:

245. 'VARUNA is the lord of puniſhment; he holds a rod even over 'kings; and a prieſt, who has gone through the whole *Véda*, is *equal to* 'a ſovereign of all the world.

246. 'Where the king abſtains from receiving *to his own uſe* the 'wealth of ſuch offenders, there children are born in due ſeaſon and 'enjoy long lives;

247. '*There* the grain of huſbandmen riſes abundantly, as it was 'reſpectively ſown; there no younglings die, nor is one deformed 'animal born.

248. 'SHOULD a man of the baſeſt claſs, with preconceived malice, 'give pain to *Bráhmens*, let the prince corporally puniſh him by various modes, that may raiſe terrour.

249. 'A king is pronounced equally unjuſt in releaſing the man, who 'deſerves puniſhment, and in puniſhing the man, who deſerves it not: 'he is juſt, who always inflicts the puniſhment ordained by law.

250. 'Theſe eſtabliſhed rules for adminiſtering juſtice, between two 'litigant parties, have been propounded at length under eighteen 'heads.

251. 'THUS fully performing all duties required by law, let a king 'ſeek *with juſtice* to poſſeſs regions yet unpoſſeſſed, and, when they 'are in his poſſeſſion, let him govern them well.

252. 'His realm being completely arranged and his fortreſſes amply 'provided, let him ever apply the moſt diligent care to eradicate *bad* '*men reſembling* thorny weeds, as the law directs.

253. 'By protecting ſuch as live virtuouſly, and by rooting up ſuch 'as live wickedly, thoſe kings, whoſe hearts are intent on the ſecurity of their people, ſhall riſe to heaven.

254. 'Of

254. ‘Of that prince, who takes a revenue, without reſtraining ‘rogues, the dominions are thrown into diſorder, and himſelf ſhall be ‘precluded from a celeſtial abode;

255. ‘But of him, whoſe realm, by the ſtrength of his arm, is de-‘fended and free from terrour, the dominions continually flouriſh, like ‘trees duly watered.

256. ‘LET the king, whoſe emiſſaries are his eyes, diſcern well the ‘two ſorts of rogues, the open and the concealed, who deprive other ‘men of their wealth:

257. ‘Open rogues are they, who ſubſiſt by cheating in various ‘marketable commodities; and concealed rogues are they, who ſteal ‘and rob in foreſts and the like ſecret places.

258. ‘Receivers of bribes, extorters of money by threats, debaſers ‘of metals, gameſters, fortunetellers, impoſters, and profeſſors of ‘palmiſtry;

259. ‘Elephantbreakers and quacks, not performing what they en-‘gage to perform, pretended artiſts, and ſubtil harlots;

260. ‘Theſe and the like thorny weeds, overſpreading the world, ‘let the king diſcover with a quick ſight, and others, who act ill ‘in ſecret; worthleſs men, yet bearing the outward ſigns of the ‘worthy.

261. ‘Having detected them, by the means of truſty perſons diſ-‘guiſed, who *pretend to* have the ſame occupation with them, and of

‘ſpies

'spies placed in several stations, let him bring them by artifice into his 'power:

262. 'Then, having fully proclaimed their respective criminal acts, 'let the king inflict punishment legally, according to the crimes 'proved;

263. 'Since, without certain punishment, it is impossible to restrain 'the delinquency of scoundrels with depraved souls, who secretly prowl 'over this earth.

264. 'Muchfrequented places, cisterns of water, bake houses, the 'lodgings of harlots, taverns and victualling shops, squares where four 'ways meet, large well known trees, assemblies, and publick spectacles;

265. 'Old courtyards, thickets, the houses of artists, empty man-'sions, groves, and gardens;

266. 'These and the like places let the king guard, for the pre-'vention of robberies, with soldiers, both stationary and patroling, as 'well as with secret watchmen.

267. 'By the means of able spies, once thieves *but reformed*, who, 'well knowing the various machinations of rogues, associate with them 'and follow them, let the king detect and draw them forth:

268. 'On pretexts of dainty food and gratifications, or of seeing 'some wise priest, *who could ensure their success*, or on pretence of *mock 'battles and the like* feats of strength, let the spies procure an assembly 'of those men.

269. 'Such

269. ‘ Such as refuſe to go forth on thoſe occaſions, deterred by ‘ *former puniſhments, which* the king *had inflicted,* let him *ſeize* by ‘ force, *and* put to death, *on proof of their guilt*, with their friends ‘ and kinſmen, paternal and maternal, *if proved to be their confe-* ‘ *derates.*

270. ‘ Let not a juſt prince kill a man convicted of ſimple theft, ‘ unleſs taken with the mainer or with implements of robbery; but ‘ any thief, taken with the mainer, or with ſuch implements, let him ‘ deſtroy without heſitation;

271. ‘ And let him ſlay all thoſe, who give robbers food in towns, ‘ or ſupply them with implements, or afford them ſhelter.

272. ‘ Should thoſe men, who are appointed to guard any diſtricts, ‘ or thoſe of the vicinity, who were employed for that purpoſe, be ‘ neutral in attacks by robbers *and inactive in ſeizing them*, let him ‘ inſtantly puniſh them as thieves.

273. ‘ Him, who lives *apparently* by the rules of his claſs, but *really* ‘ departs from thoſe rules, let the king ſeverely puniſh by fine, as a ‘ wretch, who violates his duty.

274. ‘ They, who give no aſſiſtance on the plundering of a town, ‘ on the forcible breaking of a dike, or on ſeeing a robbery on the ‘ highway, ſhall be baniſhed with their cattle and utenſils.

275. ‘ Men, who rob the king's treaſure, or obſtinately oppoſe his ‘ commands, let him deſtroy by various modes of juſt puniſhment; ‘ and thoſe, who encourage his enemies.

276. ‘ Of

276. ‘ Of robbers, who break a wall or partition, and commit theft ‘ in the night, let the prince order the hands to be lopped off, and ‘ themſelves to be fixed on a ſharp ſtake.

277. ‘ Two fingers of a cutpurſe, *the thumb and the index*, let him ‘ cauſe to be amputated on his firſt conviction; on the ſecond, one ‘ hand and one foot; on the third, he ſhall ſuffer death.

278. ‘ Such, as give thieves fire, ſuch as give them food, ſuch as ‘ give them arms and apartments, and ſuch as knowingly receive a ‘ thing ſtolen, let the king puniſh as *he would puniſh* a thief.

279. ‘ The breaker of a *dam to ſecure a* pool, let him puniſh by long ‘ immerſion under water, or by keen corporal ſuffering; or the offender ‘ ſhall repair it, but muſt pay the higheſt mulct.

280. ‘ Thoſe, who break open the treaſury, or the arſenal, or the ‘ temple of a deity, and thoſe, who carry off royal elephants, horſes, or ‘ cars, let him without heſitation deſtroy.

281. ‘ He, who ſhall take away the water of an ancient pool, or ‘ ſhall obſtruct a watercourſe, muſt be condemned to pay the loweſt ‘ uſual amercement.

282. ‘ He, who ſhall drop his ordure on the king’s highway, ex- ‘ cept in caſe of neceſſity, ſhall pay two *panas* and immediately remove ‘ the filth;

283. ‘ But a perſon in urgent neceſſity, a very old man, a pregnant ‘ woman, and a child, only deſerve reproof, and ſhall clean the place ‘ themſelves: that is a ſettled rule.

284. ‘ All

284. 'All physicians and ſurgeons acting unſkilfully in their ſeveral 'profeſſions, muſt pay for *injury to* brute animals the loweſt, but for '*injury to* human creatures the middle, amercement.

285. 'The breaker of a footbridge, of a publick flag, of a pali-'ſade, and of idols *made of clay*, ſhall repair what he has broken, and 'pay a mulct of five hundred *panas*.

286. 'For mixing impure with pure commodities, for piercing fine 'gems, *as diamonds or rubies*, and for boring *pearls or inferiour gems* 'improperly, the fine is the loweſt of the three; *but damages muſt* '*always be paid*.

287. 'The man, who ſhall deal unjuſtly with purchaſers at a fair 'price *by delivering goods of leſs value*, or ſhall ſell at a high price '*goods of ordinary value*, ſhall pay *according to circumſtances*, the loweſt 'or the middle amercement.

288. 'Let the king place all priſons near a public road, where of-'fenders may be ſeen wretched or disfigured.

289. 'Him, who breaks down a *publick* wall, him, who fills up a '*publick* ditch, him, who throws down a *publick* gate, the king ſhall 'ſpeedily baniſh.

290. 'For all ſacrifices to deſtroy innocent men, the puniſhment is 'a fine of two hundred *panas*; and for machinations with *poiſonous* 'roots, and for the various *charms and* witcheries *intended* to kill, by 'perſons not effecting their purpoſe.

291. 'The ſeller of bad grain for good, or of good ſeed placed at 'the top *of the bag, to conceal the bad below*, and the deſtroyer of known

'landmarks,

'landmarks, muſt ſuffer ſuch corporal puniſhment as will disfigure 'them;

292. 'But the moſt pernicious of all deceivers is a goldſmith, who 'commits frauds: the king ſhall order him to be cut piecemeal with 'razors.

293. 'For ſtealing implements of huſbandry, weapons, and pre-'pared medicines, let the king award puniſhment according to the 'time and according to their uſe.

294. 'The king, and his council, his metropolis, his realm, his 'treaſure, and his army, together with his ally, are the ſeven mem-'bers of his kingdom; *whence* it is called *Septánga:*

295. 'Among thoſe ſeven members of a kingdom, let him con-'ſider the ruin of the firſt, and ſo forth in order, as the greateſt ca-'lamity;

296. 'Yet, in a ſevenparted kingdom here below, there is no ſu-'premacy among the ſeveral parts, from any preeminence in uſeful 'qualities: but all the parts muſt reciprocally ſupport each other, like 'the three ſtaves of a holy mendicant:

297. 'In theſe and thoſe acts, *indeed*, this and that member may 'be diſtinguiſhed; *and* the member, by which any affair is tranſacted, 'has the preeminence in that particular affair.

298. 'When the king employs emiſſaries, when he exerts power, 'when he regulates publick buſineſs, let him invariably know both his 'own ſtrength and that of his enemy,

299. 'With

299. 'With all *their several* distresses and vices: let him then begin
'his operations, having maturely considered the greater and less im-
'portance *of particular acts:*

300. 'Let him, *though frequently disappointed*, renew his operations,
'how fatigued soever, again and again; since fortune always attends
'the man, who, *having begun well*, strenuously renews his efforts.

301. 'ALL the ages, called *Satya*, *Trétá*, *Dwápara*, and *Cali*, de-
'pend on the conduct of the king; who is declared *in turn* to repre-
'sent each of those ages:

302. 'Sleeping, he is the *Cali* age; waking, the *Dwápara*; exerting
'himself in action, the *Trétá*; living virtuously, the *Satya*.

303. 'Of INDRA, of SU'RYA, of PAVANA, of YAMA, of VARUNA,
'of CHANDRA, of AGNI, and of PRĬT'HIVÌ, let the king emulate the
'power and attributes.

304. 'As INDRA sheds plentiful showers during the four rainy
'months, thus let him, acting like the regent of clouds, rain just
'gratifications over his kingdom:

305. 'As SU'RYA with strong rays draws up the water during eight
'months, thus let him, performing the function of the sun, gradually
'draw from his realm the legal revenue:

306. 'As PAVANA, when he moves, pervades all creatures, thus let
'him, imitating the regent of wind, pervade *all places* by his concealed
'emissaries:

307. 'As YAMA, at the appointed time, puniſhes friends and foes, '*or thoſe who revere, and thoſe who contemn, him,* thus let the king, re- 'ſembling the judge of departed ſpirits, puniſh offending ſubjects:

308. 'As VARUNA moſt aſſuredly binds the guilty in fatal cords, 'thus let him, repreſenting the genius of water, keep offenders in 'cloſe confinement:

309. 'When the people are no leſs delighted on ſeeing the king, 'than on ſeeing the full moon, he appears in the character of CHAN- 'DRA:

310. 'Againſt criminals let him ever be ardent in wrath, let him be 'ſplendid in glory, let him conſume wicked miniſters, thus emulating 'the functions of AGNI, regent of fire.

311. 'As PRĬT'HIVÌ ſupports all creatures equally, thus a king, ſuſ- 'taining all ſubjects, reſembles in his office the goddeſs of earth.

312. 'Engaged in theſe duties and in others, with continual activity, 'let the king *above all things* reſtrain robbers, both in his own terri- 'tories and in thoſe of other princes, *from which they come, or in which* '*they ſeek refuge.*

313. 'LET him not, although in the greateſt diſtreſs *for money,* 'provoke *Bráhmens* to anger *by taking their property;* for they, once 'enraged, could immediately *by ſacrifices and imprecations* deſtroy him 'with his troops, elephants, horſes and cars.

314. 'Who, without periſhing, could provoke thoſe holy men, by 'whom, *that is, by whoſe anceſtors, under* BRAHMA', the alldevouring 'fire

'fire was created, the ſea with waters not drinkable, and the moon 'with its wane and increaſe?

315. 'What prince could gain wealth by oppreſſing thoſe, who, if 'angry, could frame other worlds and regents of worlds, could give 'being to new gods and mortals?

316. 'What man, deſirous of life, would injure thoſe, by the aid of 'whom, *that is, by whoſe oblations*, worlds and gods perpetually ſubſiſt; 'thoſe, who are rich in the learning of the *Véda*?

317. 'A *Bráhmen*, whether learned or ignorant, is a powerful di-'vinity; even as fire is a powerful divinity, whether conſecrated or 'popular.

318. 'Even in places for burning the dead, the bright fire is un-'defiled; and, when preſented with clarified butter at *ſubſequent* ſacri-'fices, blazes again with extreme ſplendour:

319. 'Thus, although *Bráhmens* employ themſelves in all ſorts of 'mean occupation, they muſt invariably be honoured; for they are 'ſomething tranſcendently divine.

320. 'Of a military man, who raiſes his arm violently on all occa-'ſions againſt the prieſtly claſs, the prieſt himſelf ſhall be the chaſtiſer; 'ſince the ſoldier originally proceeded from the *Bráhmen*.

321. 'From the waters aroſe fire; from the prieſt, the ſoldier; from 'ſtone, iron: their allpenetrating force is ineffectual in the places, 'whence they reſpectively ſprang.

322. 'The

322. 'The military claſs cannot proſper without the ſacerdotal, nor 'can the ſacerdotal be raiſed without the military: both claſſes, by 'cordial union, are exalted in this world and in the next.

323. 'SHOULD the king *be near his end through ſome incurable diſeaſe,* '*he* muſt beſtow on the prieſts all his riches accumulated from legal 'fines; and, having duly committed his kingdom to his ſon, let him 'ſeek death in battle, *or, if there be no war, by abſtaining from food.*

324. 'Thus conducting himſelf, *and* ever firm in diſcharging his 'royal duties, let the king employ all his miniſters in acts beneficial to 'his people.

325. 'Theſe rules for the conduct of a military man having been 'propounded, let mankind next hear the rules for the commercial and 'ſervile claſſes in due order.

326. 'LET the *Vaiſya,* having been girt with his proper ſacrificial 'thread, and having married an equal wife, be always attentive to his 'buſineſs *of agriculture and trade,* and to that of keeping cattle;

327. 'Since the lord of created beings, having formed herd, and 'flocks, intruſted them to the care of the *Vaiſya,* while he intruſted 'the whole human ſpecies to the *Bráhmen* and the *Cſhatriya:*

328. 'Never muſt a *Vaiſya* be diſpoſed to ſay, "I keep no cattle;" 'nor, he being willing to keep them, muſt they by any means be kept 'by men of another claſs.

329. 'Of gems, pearls, and coral, of iron, of woven cloth, of per- 'fumes and of liquids, let him well know the prices both high and low:

330. 'Let

330. 'Let him be ſkilled likewiſe in *the time and manner of* ſowing
'ſeeds, and in the bad or good qualities of land; let him alſo perfectly
'know the correct modes of meaſuring and weighing,

331. 'The excellence or defects of commodities, the advantages and
'diſadvantages of different regions, the probable gain or loſs on vendi-
'ble goods, and the means of breeding cattle with large augmenta-
'tion:

332. 'Let him know the juſt wages of ſervants, the various dialects
'of men, the beſt way of keeping goods, and *whatever elſe belongs to*
'purchaſe and ſale.

333. 'Let him apply the moſt vigilant care to augment his wealth
'by *performing* his duty; and, with great ſolicitude, let him give
'nouriſhment to all ſentient creatures.

334. 'SERVILE attendance on *Bráhmens* learned in the *Véda*, chiefly
'on ſuch as keep houſe and are famed for virtue, is of itſelf the
'higheſt duty of a *Súdra*, and leads him to future beatitude:

335. 'Pure *in body and mind*, humbly ſerving the three higher claſſes,
'mild in ſpeech, never arrogant, ever ſeeking refuge in *Bráhmens*
'principally, he may attain the moſt eminent claſs *in another tranſmi-*
'*gration*.

336. 'THIS clear ſyſtem of duties has been promulgated for the four
'claſſes, when they are not in diſtreſs for ſubſiſtence; now learn in
'order their ſeveral duties in times of neceſſity.'

CHAPTER THE TENTH.

On the mixed Claſſes; and on Times of Diſtreſs.

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1. ‘LET the three twiceborn claſſes, remaining firm in their ſe-
‘ veral duties, carefully read the *Véda*; but a *Bráhmen* muſt explain it
‘ to them, not *a man of* the other two *claſſes:* this is an eſtabliſhed
‘ rule.

2. ‘ The *Bráhmen* muſt know the means of ſubſiſtence ordained by
‘ law for all the claſſes, and muſt declare them to the reſt: let himſelf
‘ likewiſe act in conformity *to law*.

3. ‘ From priority of birth, from ſuperiority of origin, from a more
‘ exact knowledge of ſcripture, and from a diſtinction in the ſacrificial
‘ thread, the *Bráhmen* is the lord of all claſſes.

4. ‘ The three twiceborn claſſes are the ſacerdotal, the military, and
‘ the commercial; but the fourth, or ſervile, is onceborn, *that is, has*
‘ *no ſecond birth from the* gáyatrí, *and wears no thread:* nor is there a
‘ fifth pure claſs.

5. ‘ IN all claſſes they, and they only, who are born, in a direct order,
‘ of wives equal in claſs and virgins at the time of marriage, are to be
‘ conſidered as the ſame in claſs *with their fathers:*

6. ‘ Sons,

6. ‘ Sons, begotten by twiceborn men, on women of the clafs next
‘ immediately below them, wife legiflators call fimilar, *not the fame*, in
‘ clafs *with their parents*, becaufe they are degraded, *to a middle rank*
‘ *between both*, by the lownefs of their mothers : *they are named in order*,
‘ Múrdhábhifhicta, Máhifhya, *and* Carana, *or* Cáyaft'ha ; *and their fe-*
‘ *veral employments are teaching military exercifes* ; *mufick*, *aftronomy*, *and*
‘ *keeping herds* ; *and attendance on princes*.

7. ‘ Such is the primeval rule for the fons of women one degree
‘ lower *than their hufbands* : for the fons of women two or three de-
‘ grees lower, let this rule of law be known.

8. ‘ From a *Bráhmen*, on a wife of the *Vaifya* clafs, is born a fon
‘ called *Ambafht'ha*, or *Vaidya*, on a *Súdra* wife a *Nifháda*, named alfo
‘ *Párafava* :

9. ‘ From a *Cfhatriya*, on a wife of the *Súdra* clafs, fprings a crea-
‘ ture, called *Ugra*, with a nature partly warlike and partly fervile,
‘ ferocious in his manners, cruel in his acts.

10. ‘ The fons of a *Bráhmen* by *women of* three *lower* claffes, of a
‘ *Cfhatriya* by *women of* two, and of a *Vaifya* by one *lower* clafs, are
‘ called *apafadáh*, or degraded *below their fathers*.

11. ‘ From a *Cfhatriya*, by a *Bráhmenì* wife, fprings a *Súta* by birth;
‘ from a *Vaifya*, by a military or facerdotal wife, fpring a *Mágadha*
‘ and a *Vaidéha*.

12. ‘ From a *Súdra*, on women of the commercial, military, and
‘ prieftly claffes, are born fons of a mixed breed, called *A'yógava*,
‘ *Cfhattrĭ*, and *Chandála*, the loweft of mortals.

13. ‘ As

13. ‘ As the *Ambaſht'ha* and *Ugra,* born in a direct order with one
‘ claſs between *thoſe of their parents,* are conſidered in law, ſo are the
‘ *Cſhattrĭ* and the *Vaidéha,* born in an inverſe order *with one inter-*
‘ *mediate claſs* ; *and all four may be touched without impurity.* ’

14. ‘ Thoſe ſons of the twiceborn, who are begotten on women
‘ without an interval *(Antara)* between the claſſes mentioned in order,
‘ the wiſe call *Anantaras,* giving them a *diſtinct* name from the lower
‘ degree of their mothers.

15. ‘ From a *Bráhmen,* by a girl of the *Ugra* tribe, is born an
‘ *A'vrĭta* ; by one of the *Ambaſt'ha* tribe, and *A'bhíra* ; by one of the
‘ *A'yógava* tribe, a *Dhigvana.*

16. ‘ The *A'yógava,* the *Cſhattrĭ,* and the *Chandála,* the loweſt of
‘ men, ſpring from a *Súdra* in an inverſe order *of the claſſes,* and are,
‘ *therefore,* all three excluded *from the performance of obſequies to their*
‘ *anceſtors :*

17. ‘ From a *Vaiſya* the *Mágadha* and *Vaidéha,* from a *Cſhatriya* the
‘ *Súta* only, are born in an inverſe order ; and they are three other
‘ ſons excluded *from funeral rites to their fathers.*

18. ‘ The ſon of a *Niſháda,* by a woman of the *Súdra* claſs, is by
‘ tribe a *Puccaſa* ; but the ſon of a *Súdra* by a *Niſhádì* woman, is
‘ named *Cuccutaca.*

19. ‘ One, born of a *Cſhattrĭ* by an *Ugrá,* is called *Swapáca* ; and
‘ one, begotten by a *Vaidéha* on an *Ambaſhthì* wife, is called *Véna.*

 20. ‘ Thoſe,

20. 'Thoſe, whom the twiceborn beget on women of equal claſſes, 'but who perform not the proper ceremonies *of aſſuming the thread,* '*and the like,* people denominate *Vrátyas,* or excluded from the '*gáyatrí.*

21. 'From ſuch an outcaſt *Bráhmen* ſprings a ſon of a ſinful nature, '*who in different countries is* named a *Bhúrjacantaca,* an *A'vantya,* a '*Vátadhána,* a *Puſhpadha,* and a *Saic'ha:*

22. 'From ſuch an outcaſt *Cſhatriya* comes a ſon called a *J'halla,* 'a *Malla,* a *Nich'hivi,* a *Nata,* a *Carana,* a *C'haſa,* and a *Dravira:*

23. 'From ſuch an outcaſt *Vaiſya* is born a ſon called *Sudhanwan,* '*Chárya, Cáruſha, Vijanman, Maitra,* and *Satwata.*

24. 'By intermixtures of the claſſes, by their marriages with wo-'men who ought not to be married, and by their omiſſion of pre-'ſcribed duties, impure claſſes have been formed.

25. 'Those men of mingled births, who were born in the inverſe 'order of claſſes, and who intermarry among themſelves, I will now 'compendiouſly deſcribe.

26. 'The *Súta,* the *Vaidéha,* and the *Chandála,* that loweſt of mor-'tals, the *Mágadha,* the *Cſhattrĭ* by tribe, and the *A'yógava,*

27. 'Theſe ſix beget ſimilar ſons on women of their own claſſes, or 'on women of the ſame claſs with their mothers; and they produce 'the like from women of the two higheſt claſſes, *and of the loweſt:*

28. 'As

28. ‘ As a twiceborn ſon may ſpring from a *Bráhmen* by women
‘ of two claſſes out of three, *a ſimilar ſon*, when there is no interval,
‘ and *an equal ſon* from a woman of his own claſs, it is thus in the caſe
‘ of the low tribes in order.

29. ‘ Thoſe ſix beget, on women of their own tribes, reciprocally,
‘ very many deſpicable and abject races even more foul than their
‘ begetters.

30. ‘ Even as a *Súdra* begets, on a *Bráhmenì* woman, a ſon more vile
‘ than himſelf, thus any other low man begets, on *woman of* the four
‘ claſſes, a ſon yet lower.

31. ‘ The ſix low claſſes, marrying inverſely, beget fifteen yet
‘ lower tribes, the baſe producing ſtill baſer; *and in a direct order they*
‘ *produce fifteen more*.

32. ‘ A *Daſyu*, or outcaſt of any pure claſs, begets on an *A'yógavì*
‘ woman a *Sairindhra*, who ſhould know how to attend and to dreſs
‘ his maſter; though not a ſlave, he muſt live by ſlaviſh work, and
‘ may alſo gain ſubſiſtence by catching wild beaſts in toils:

33. ‘ A *Vaidéha* begets on her a ſweetvoiced *Maitréyaca*, who,
‘ ringing a bell at the appearance of dawn, continually praiſes great
‘ men:

34. ‘ A *Niſháda* begets on her a *Márgava*, or *Dáſa*, who ſubſiſts by his
‘ labour in boats, and is named *Caiverta* by thoſe, who dwell in *A'ryá-*
‘ *verta*, or the land of the venerable.

35. ‘ Thoſe

35. 'Thoſe three of a baſe tribe are ſeverally begotten on *A'yógavì* 'women, who wear the clothes of the deceaſed and eat reprehenſible 'food.

36. 'From a *Niſháda* ſprings *by a woman of the* Vaidéha *tribe*, a '*Cárávara*, who cuts leather, and from a *Vaidéha* ſpring *by women of* 'the Cárávara *and* Niſháda *caſts*, an *Andhra* and a *Méda*, who muſt 'live without the town.

37. 'From a *Chandála*, by a *Vaidéhì* woman, comes a *Pánduſópáca*, 'who works with cane and reeds; and from a *Niſháda*, an *Ahindica*, 'who acts as a jailor.

38. 'From a *Chandála*, by a *Puccasì* woman, is born a *Sópáca*, who 'lives by puniſhing criminals condemned by the king, a ſinful wretch 'ever deſpiſed by the virtuous.

39. 'A *Niſhádì* woman, by a *Chandála*, produces a ſon called *Antya-* '*vaſayin*, employed in places for burning the dead, contemned even by 'the contemptible.

40. 'Theſe, among various mixed claſſes, have been deſcribed by 'their ſeveral fathers and mothers; and, whether concealed or open, 'they may be known by their occupations.

41. 'Six ſons, *three* begotten on women of the ſame claſs, and *three* 'on women of lower claſſes, muſt perform the duties of twiceborn 'men; but thoſe, who are *born in an inverſe order, and* called lowborn, 'are equal, in reſpect of duty, to mere *Súdras*.

42. 'By

42. 'By the force of extreme devotion and of exalted fathers, all
'of them may riſe *in time* to high birth, as *by the reverſe* they may
'ſink to a lower ſtate, in every age among mortals in this inferiour
'world.

43. 'THE following races of *Cſhatriyas*, by their omiſſion of holy
'rites and by ſeeing no *Bráhmens*, have gradually ſunk among men
'to the loweſt of the four claſſes:

44. '*Paund'racas*, *Odras*, and *Draviras*; *Cámbójas*, *Yavanas*, and
'*Sacas*; *Páradas*, *Pahlavas*, *Chínas*, *Cirátas*, *Deradas*, and *C'haſas*.

45. 'All thoſe tribes of men, who ſprang from the mouth, the arm,
'the thigh, and the foot of BRAHMA', *but* who became outcaſts *by*
'*having neglected their duties*, are called *Daſyus*, or *plunderers*, whether
'they ſpeak the language of *Mléchch'has*, or that of *A'ryas*.

46. 'THOSE ſons of the twiceborn, who are ſaid to be degraded,
'and who are conſidered as lowborn, ſhall ſubſiſt only by ſuch employ-
'ments, as the twiceborn deſpiſe.

47. '*Sútas* muſt live by managing horſes and by driving cars;
'*Ambaſht'has*, by curing diſorders; *Vaidéhas*, by waiting on women;
'*Mágadhas*, by travelling with merchandize;

48. '*Niſhádas*, by catching fiſh; an *A'yógava*, by the work of a car-
'penter; a *Méda*, an *Andhra*, and (the ſons of a *Bráhmen* by wives of
'the *Vaidéha* and *Ugra* claſſes, reſpectively called) a *Chunchu* and a
'*Madgu*, by ſlaying beaſts of the foreſt;

49. 'A

49. ‘ A *Cſhattrĭ*, an *Ugra*, and a *Puccaſa*, by killing or confining ‘ ſuch animals as live in holes: *Dhigvanas*, by ſelling leather; *Vénas*, ‘ by ſtriking muſical inſtruments:

50. ‘ Near large publick trees, in places for burning the dead, on ‘ mountains, and in groves, let thoſe tribes dwell, generally known, ‘ and engaged in their ſeveral works.

51. ‘ THE abode of a *Chandála* and a *Swapáca* muſt be out of the ‘ town; they muſt not have the uſe of entire veſſels; their ſole wealth ‘ muſt be dogs and aſſes:

52. ‘ Their clothes muſt be the mantles of the deceaſed; their diſhes ‘ for food, broken pots; their ornaments, ruſty iron; continually muſt ‘ they roam from place to place:

53. ‘ Let no man, who regards his duty religious and civil, hold ‘ any intercourſe with them; let their tranſactions be confined to ‘ themſelves, and their marriages only between equals:

54. ‘ Let food be given to them in potſherds, but not by the hands ‘ of the giver; and let them not walk by night in cities or towns:

55. ‘ By day they may walk about for the purpoſe of work, diſtin- ‘ guiſhed by the king's badges; and they ſhall carry out the corpſe of ‘ every one, who dies without kindred: ſuch is the fixed rule.

56. ‘ They ſhall always kill thoſe, who are to be ſlain by the ſentence ‘ of the law, and by the royal warrant; and let them take the clothes ‘ of the ſlain, their beds, and their ornaments.

57. ‘ HIM,

57. ‘ Him, who was born of a ſinful mother, *and conſequently* in ‘ a low claſs, but is not openly known, who, though worthleſs in ‘ truth, bears the ſemblance of a worthy man, let people diſcover by his ‘ acts :

58. ‘ Want of virtuous dignity, harſhneſs of ſpeech, cruelty, and ‘ habitual neglect of preſcribed duties, betray in this world the ſon ‘ of a criminal mother.

59. ‘ Whether a man of debaſed birth aſſume the character of his ‘ father or of his mother, he can at no time conceal his origin :

60. ‘ He, whoſe family had been exalted, but whoſe parents were ‘ criminal in marrying, has a baſe nature, according as the offence *of* ‘ *his mother* was great or ſmall.

61. ‘ In whatever country ſuch men are born, as deſtroy the purity ‘ of the four claſſes, that country ſoon periſhes together with the na- ‘ tives of it.

62. ‘ Deſertion of life, without reward, for the ſake of preſerving a ‘ prieſt or a cow, a woman or a child, may cauſe the beatitude of thoſe ‘ baſeborn tribes.

63. ‘ Avoiding all injury *to animated beings*, veracity, abſtinence ‘ from theft, *and from unjuſt ſeizure of property*, cleanlineſs, and com- ‘ mand over the bodily organs, form the compendious ſyſtem of duty, ‘ which Menu has ordained for the four claſſes.

64. ‘ Should the tribe ſprung from a *Bráhmen*, by a *Súdra* woman, ‘ produce *a ſucceſſion of children* by the marriages of its women with ‘ other

'other *Bráhmens*, the low tribe ſhall be raiſed to the higheſt in the 'ſeventh generation.

65. 'As the ſon of a *Súdra* may *thus* attain the rank of a *Bráhmen*, 'and as the ſon of a *Bráhmen* may ſink to a level with *Súdras*, even ſo 'muſt it be with him, who ſprings from a *Cſhatriya*; even ſo with 'him, who was born of a *Vaiſya*.

66. 'If there be a doubt, as to the preference between him, who 'was begotten by a *Bráhmen* for his pleaſure, *but not in wedlock*, on a '*Súdra* woman, and him, who was begotten by a *Súdra* on a *Bráh*-'*mení*,

67. 'Thus is it removed: he, who was begotten by an exalted man 'on a baſe woman, may by his good acts become reſpectable; but he, 'who was begotten on an exalted woman by a baſe man, muſt himſelf 'continue baſe:

68. 'Neither of the two (as the law is fixed) ſhall be girt with a 'ſacred ſtring; not the former, becauſe his mother was low; nor the 'ſecond, becauſe the order of the claſſes was inverted.

69. 'As good grain, ſpringing from good ſoil, is in all reſpects ex-'cellent, thus a man, ſpringing from a reſpectable father by a re-'ſpectable mother, has a claim to the whole inſtitution of the twice-'born.

70. 'Some ſages give a preference to the grain; others to the field; 'and others conſider both field and grain; on this point the deciſion 'follows:

71. 'Grain,

71. ' Grain, caſt into bad ground, wholly periſhes, and a good field
' with no grain ſown in it, is a mere heap of clods;

72. ' But ſince, by the virtue of eminent fathers, even the ſons of
' wild animals, *as* Riſhyaſringa, *and others*, have been transformed
' into holy men revered and extolled, the paternal ſide, therefore,
' prevails.

73. ' BRAHMA' himſelf, having compared a *Súdra*, who performs
' the duties of the twiceborn, with a twiceborn man, who does
' the acts of a *Súdra*, ſaid: " Thoſe two are neither equal nor un-
" equal," *that is, they are neither equal in rank, nor unequal in bad*
' *conduct*.

74. ' LET ſuch *Bráhmens* as are intent on the means of attaining the
' ſupreme godhead, and firm in their own duties, completely perform
' in order, the ſix following acts:

75. ' Reading the *Védas*, and teaching *others* to read them, ſacri-
' ficing, and aſſiſting *others* to ſacrifice, giving *to the poor*, *if themſelves*
' *have enough*, and accepting *gifts from the virtuous*, *if themſelves are*
' *poor*, are the ſix preſcribed acts of the firſtborn claſs;

76. ' But, among thoſe ſix acts of a *Bráhmen*, three are his *means of*
' ſubſiſtence; aſſiſting to ſacrifice, teaching the *Védas*, and receiving
' gifts from a purehanded giver.

77. ' Three acts of duty ceaſe with the *Bráhmen*, and belong not to
' the *Cſhatriya*; teaching the *Védas*, officiating at a ſacrifice, and,
' thirdly, receiving preſents:

 78. ' Thoſe

78. ' Thoſe *three* are alſo (by the fixed rule of law) forbidden to the ' *Vaiſya*; ſince Menu, the lord of all men, preſcribed not thoſe acts ' to the two *claſſes*, *military and commercial*.

79. ' The means of ſubſiſtence, peculiar to the *Cſhatriya*, are bearing ' arms, either held for ſtriking or miſſile; to the *Vaiſya*, merchandize, ' attending on cattle, and agriculture: but *with a view to the next life* ' the duties of both are almſgiving, reading, ſacrificing.

80. ' Among the ſeveral occupations *for gaining a livelihood* the moſt ' commendable reſpectively for the ſacerdotal, military, and mercantile ' claſſes, are teaching the *Véda*, defending the people, and commerce ' or keeping herds and flocks.

81. ' Yet a *Bráhmen*, unable to ſubſiſt by his duties juſt mentioned, ' may live by the duty of a ſoldier; for that is the next in rank.

82. ' If it be aſked, how he muſt live, ſhould he be unable to get ' a ſubſiſtence by either of thoſe employments; *the anſwer is*, he may ' ſubſiſt as a mercantile man, applying himſelf *in perſon* to tillage and ' attendance on cattle:

83. ' But a *Bráhmen* and a *Cſhatriya*, obliged to ſubſiſt by the acts ' of a *Vaiſya*, muſt avoid with care, *if they can live by keeping herds*, the ' buſineſs of tillage, which gives great pain *to ſentient creatures*, and ' is dependant on *the labour of* others, *as bulls and ſo forth*.

84. ' Some are of opinion, that agriculture is excellent; but it is a ' mode of ſubſiſtence, which the benevolent greatly blame; for the ' ironmouthed pieces of wood not only wound the earth, but the ' creatures dwelling in it.

85. ' If,

85. ‘ If, through want of a virtuous livelihood, they cannot follow ‘ laudable occupations, they may then gain a competence of wealth by ‘ ſelling commodities uſually ſold by merchants, avoiding what ought ‘ to be avoided :

86. ‘ They muſt avoid ſelling liquids of all ſorts, dreſſed grain, ſeeds ‘ of *tila*, ſtones, ſalt, cattle, and human creatures ;

87. ‘ All woven cloth dyed red, cloth made of *ſana*, of *cſhumá* bark, ‘ and of wool, even though not red ; fruit, roots, and medicinal plants ;

88. ‘ Water, iron, poiſon, fleſhmeat, the moonplant, and perfumes ‘ of any ſort ; milk, honey, buttermilk, clarified butter, oil of *tila*, ‘ wax, ſugar, and blades of *cus'a*-graſs ;

89. ‘ All beaſts of the foreſt, *as deer and the like* ; ravenous beaſts, ‘ birds, *and fiſh* ; ſpirituous liquors, *níli*, or indigo, and *lácſhá*, or lac ; ‘ and all beaſts with uncloven hoofs.

90. ‘ But the *Bráhmen* huſbandman may at pleaſure ſell pure *tila* ‘ ſeeds for the purpoſe of holy rites, if he keep them not long *with a* ‘ *hope of more gain*, and ſhall have produced them by his own culture :

91. ‘ If he apply ſeeds of *tila* to any purpoſe but food, anointing, ‘ and ſacred oblations, he ſhall be plunged, in the ſhape of a worm, ‘ together with his parents, into the ordure of dogs.

92. ‘ By ſelling fleſhmeat, *lácſhá*, or ſalt, a *Bráhmen* immediately ‘ ſinks low ; by ſelling milk three days, he falls to a level with a ‘ *Súdra* ;

93. ‘ And

93. 'And by ſelling the other forbidden commodities with his own
'free will, he aſſumes in this world, after ſeven nights, the nature of
'a mere *Vaiſya*.

94. 'Fluid things may, however, be bartered for other fluids, but
'not ſalt for any thing liquid; ſo may dreſſed grain for grain undreſſed,
'and *tila* ſeeds for grain in the huſk, equal weights or meaſures being
'given and taken.

95. 'A MILITARY man, in diſtreſs, may ſubſiſt by all theſe means,
'but at no time muſt he have recourſe to the higheſt, *or ſacerdotal*,
'function.

96. 'A man of the loweſt claſs, who, through covetouſneſs, lives by
'the acts of the higheſt, let the king ſtrip of all his wealth and in-
'ſtantly baniſh:

97. 'His own office, though defectively performed, is preferable to
'that of another, though performed completely; for he, who *without*
'*neceſſity* diſcharges the duties of another claſs, immediately forfeits his
'own.

98. 'A MERCANTILE man, unable to ſubſiſt by his own duties, may
'deſcend even to the ſervile acts of a *Súdra*, taking care never to do
'what ought never to be done; but, when he has gained a compe-
'tence, let him depart from ſervice.

99. 'A MAN of the fourth claſs, not finding employment by wait-
'ing on the twiceborn, while his wife and ſon are tormented with
'hunger, may ſubſiſt by handicrafts:

100. 'Let

100. 'Let him principally follow thoſe mechanical occupations, *as* '*joinery and maſonry*, or thoſe various practical arts, *as painting and* '*writing*, by following which, he may ſerve the twiceborn.

101. 'Should a *Bráhmen*, afflicted and pining through want of 'food, chooſe rather to remain fixed in the path of his own duty, than 'to adopt the practice of *Vaiſyas*, let him act in this manner:

102. 'The *Bráhmen*, having fallen into diſtreſs, may receive gifts 'from any perſon whatever; for by no ſacred rule can it be ſhown, 'that abſolute purity can be ſullied.

103. 'From interpreting the *Véda*, from officiating at ſacrifices, or 'from taking preſents, though in modes generally diſapproved, no ſin is 'committed by prieſts *in diſtreſs*; for they are as pure as fire or water.

104. 'He, who receives food, when his life could not otherwiſe be 'ſuſtained, from any man whatever, is no more tainted by ſin, than 'the ſubtil ether by mud:

105. 'Aji'garta, dying with hunger, was going to deſtroy his own 'ſon (*named* S'unah-s'e'p'ha) *by ſelling him for ſome cattle*; yet he was 'guilty of no crime, ſince he only ſought a remedy againſt famiſhing:

106. 'Va'made'va, who well knew right and wrong, was by no 'means rendered impure, though deſirous, when oppreſſed *with hunger*, 'of eating the fleſh of dogs for the preſervation of his life:

107. 'Bharadwa'ja, eminent in devotion, when he and his ſon 'were almoſt ſtarved in a dreary foreſt, accepted ſeveral cows from the 'carpenter Vrĭdhu:

108. 'Viswa'mitra

108. 'VISWA'MITRA too, than whom none better knew the diſ-
'tinctions between virtue and vice, reſolved, when he was periſhing
'with hunger, to eat the haunch of a dog, which he had received
'from a *Chandála*.

109. 'Among *the* acts *generally diſapproved, namely*, accepting pre-
'ſents *from low men*, aſſiſting *them* to ſacrifice, and explaining the
'ſcripture *to them*, the receipt of preſents is the meaneſt *in this world*,
'and the moſt blamed in a *Bráhmen* after his preſent life;

110. 'Becauſe aſſiſting to ſacrifice and explaining the ſcripture are
'two acts always performed for thoſe, whoſe minds have been im-
'proved *by the ſacred initiation*; but gifts are alſo received from a ſer-
'vile man of the loweſt claſs.

111. 'The guilt, incurred by aſſiſting *low men* to ſacrifice and by
'teaching *them* the ſcripture, is removed by repetitions of the *gáyatrí*
'and oblations to fire; but that, incurred by accepting gifts *from them*,
'is expiated only by abandoning the gifts and by rigorous devotion.

112. 'It were better for a *Bráhmen*, who could not maintain him-
'ſelf, to glean ears and grains after harveſt from *the field of* any
'perſon whatever: gleaning whole ears would be better than accept-
'ing a preſent, and picking up ſingle grains would be ſtill more
'laudable.

113. '*Bráhmens*, who keep houſe, and are in want of any metals
'*except gold and ſilver*, or of other articles *for good uſes*, may aſk the
'king for them, if he be of the military claſs; but a king, *known to be*
'*avaricious and* unwilling to give, muſt not be ſolicited.

114. 'The

114. 'The foremoſt, *in order*, of theſe things may be received more 'innocently than that, which follows it: a field untilled, a tilled field, 'cows, goats, ſheep, precious metals or gems, new grain, dreſſed grain.

115. 'THERE are ſeven virtuous means of acquiring property; ſucceſſion, occupancy or donation, and purchaſe or exchange, *which are 'allowed to all claſſes*; conqueſt, *which is peculiar to the military claſs*; 'lending at intereſt, huſbandry or commerce, *which belong to the mercantile claſs*; and acceptance of preſents, *by the ſacerdotal claſs*, from 'reſpectable men.

116. 'Learning, *except that contained in the ſcriptures*, art, *as mixing 'perfumes and the like*, work for wages, menial ſervice, attendance on 'cattle, traffick, agriculture, content with little, alms, and receiving 'high intereſt on money, are ten modes of ſubſiſtence *in times of diſtreſs*.

117. 'Neither a prieſt nor a military man, *though diſtreſſed*, muſt 'receive intereſt on loans; but each of them, if he pleaſe, may pay '*the* ſmall intereſt *permitted by law, on borrowing* for ſome pious uſe, to 'the ſinful man, *who demands it*.

118. 'A MILITARY king, who takes even a fourth part *of the crops 'of his realm* at a time of urgent neceſſity, *as of war or invaſion*, and 'protects his people to the utmoſt of his power, commits no ſin:

119. 'His peculiar duty is conqueſt, and he muſt not recede from 'battle; ſo that, while he defends by his arms the merchant and 'huſbandman, he may levy the legal tax *as the price of protection*.

120. 'The tax on the mercantile claſs, *which in times of proſperity 'muſt be only a twelfth part of their crops, and a fiftieth of their perſonal*

'*profits*,

'*profits*, may be an eighth of their crops *in a time of diſtreſs, or a ſixth, which is the medium, or even a fourth in great publick adverſity*; but a twentieth of their *gains on* money, and other moveables, is the higheſt *tax:* ſerving men, artiſans, and mechanicks muſt aſſiſt by their labour, *but at no time pay taxes.*

121. 'If a *Súdra* want a ſubſiſtence *and cannot attend a prieſt*, he may ſerve a *Cſhatriya*; or, *if he cannot wait on a ſoldier by birth*, he may gain his livelihood by ſerving an opulent *Vaiſya.*

122. 'To him, who ſerves *Bráhmens* with a view to a heavenly reward, or even with a view to both *this life and the next*, the union of the word *Bráhmen* with his *name of ſervant* will aſſuredly bring ſucceſs.

123. 'Attendance on *Bráhmens* is pronounced the beſt work of a *Súdra:* whatever elſe he may perform will comparatively avail him nothing.

124. 'They muſt allot him a fit maintenance according to their own circumſtances, after conſidering his ability, his exertions, and the number of thoſe, whom he muſt provide with nouriſhment:

125. 'What remains of their dreſſed rice muſt be given to him; and apparel which they have worn, and the refuſe of their grain, and their old houſehold furniture.

126. 'There is no guilt in a man of the ſervile claſs, *who eats leeks and other forbidden vegetables:* he muſt not have the ſacred inveſtiture: he has no buſineſs with *the* duty *of making oblations to fire and the like*; but there is no prohibition againſt *his offering dreſſed grain as a ſacrifice, by way of diſcharging* his own duty.

127. 'Even

127. ‘ Even *Súdras*, who are anxious to perform their entire duty, ‘ and, knowing what they ſhould perform, imitate the practice of good ‘ men *in the houſehold ſacraments*, but without any holy text, *except* ‘ *thoſe containing praiſe and ſalutation*, are ſo far from ſinning, that they ‘ acquire juſt applauſe :

128. ‘ As a *Súdra*, without injuring another man, performs the *law-* ‘ *ful* acts of the twiceborn, even thus, without being cenſured, he ‘ gains exaltation in this world and in the next.

129. ‘ No *ſuperfluous* collection of wealth muſt be made by a *Súdra*, ‘ even though he has power *to make it*, ſince a ſervile man, who has ‘ amaſſed riches, *becomes proud, and, by his inſolence or neglect*, gives ‘ pain even to *Bráhmens*.

130. ‘ Such, as have been fully declared, are the ſeveral duties of ‘ the four claſſes in diſtreſs for ſubſiſtence ; and, if they perform them ‘ exactly, they ſhall attain the higheſt beatitude.

131. ‘ Thus has been propounded the ſyſtem of duties, religious and ‘ civil, ordained for all claſſes : I next will declare the pure law of ex- ‘ piation for ſin.’

CHAPTER THE ELEVENTH.

On Penance and Expiation.

1. ‘ HIM, who intends to marry for the ſake of having iſſue; him, ‘ who wiſhes to make a ſacrifice; him, who travels; him, who has ‘ given all his wealth at a ſacred rite; him, who deſires to maintain ‘ his preceptor, his father, or his mother; him, who needs a main- ‘ tenance for himſelf, when he firſt reads the *Védas*, and him, who is ‘ afflicted with illneſs;

2. ‘ Theſe nine *Bráhmens* let mankind conſider as virtuous mendi- ‘ cants, called *ſnátacas*; and, to relieve their wants, let gifts *of cattle* ‘ *or gold* be preſented to them in proportion to their learning:

3. ‘ To theſe moſt excellent *Bráhmens* muſt rice alſo be given with ‘ holy preſents *at oblations to fire and within the conſecrated circle*; but ‘ the dreſſed rice, which others are to receive, muſt be delivered on ‘ the outſide of the ſacred hearth: *gold and the like may be given any* ‘ *where.*

4. ‘ On ſuch *Bráhmens*, as well know the *Véda*, let the king beſtow, ‘ as it becomes him, jewels of all ſorts, and the ſolemn reward for ‘ officiating at the ſacrifice.

5. ‘ HE,

5. 'He, who has a wife, and, having begged money *to defray his* '*nuptial expences*, marries another woman, ſhall have no advantage 'but ſenſual enjoyment: the offspring belongs to the beſtower of the 'gift.

6. 'Let every man, according to his ability, give wealth to *Bráh-* '*mens* detached from the world and learned in ſcripture: ſuch a giver 'ſhall attain heaven after this life.

7. 'He alone is worthy to drink the juice of the moonplant, who 'keeps a proviſion of grain ſufficient to ſupply thoſe, whom the law 'commands him to nouriſh, for the term of three years or more;

8. 'But a twiceborn man, who keeps a leſs proviſion of grain, yet 'preſumes to taſte the juice of the moonplant, ſhall gather no fruit 'from that ſacrament, even though he taſte it at the firſt, *or ſolemn,* '*much leſs at any occaſional*, ceremony.

9. 'He, who beſtows gifts on ſtrangers *with a view to worldly* '*fame*, while he ſuffers his family to live in diſtreſs, though he has 'power *to ſupport them*, touches his lips with honey, but ſwallows 'poiſon; ſuch virtue is counterfeit:

10. 'Even what he does for the ſake of his future ſpiritual body, 'to the injury of thoſe, whom he is bound to maintain, ſhall bring him 'ultimate miſery both in this life and in the next.

11. 'Should a ſacrifice, performed by any twiceborn ſacrificer, and 'by a *Bráhmen* eſpecially, be imperfect from the want of ſome in- 'gredient, during the reign of a prince, who knows the law,

12. 'Let

12. 'Let him take that article, for the completion of the ſacrifice, 'from the houſe of any *Vaiſya*, who poſſeſſes conſiderable herds, but 'neither ſacrifices, nor drinks the juice of the moonplant:

13. 'If ſuch a *Vaiſya* be not near, he may take two or three ſuch 'neceſſary articles at pleaſure from the houſe of a *Súdra*; ſince a *Súdra* 'has no buſineſs with ſolemn rites.

14. 'Even from the houſe of a *Bráhmen* or a *Cſhatriya*, who poſſeſſes 'a hundred cows, but has no conſecrated fire, or a thouſand cows, but 'performs no ſacrifice *with the moonplant*, let a prieſt without ſcruple 'take *the articles wanted.*

15. 'From another *Bráhmen*, who continually receives preſents but 'never gives, let him take ſuch ingredients of the ſacrifice, if not be-'ſtowed *on requeſt:* ſo ſhall his fame be ſpread abroad, and his habits 'of virtue increaſe.

16. 'Thus, likewiſe, may a *Bráhmen*, who has not eaten at the time 'of ſix meals, *or has faſted three whole days*, take at the time of the 'ſeventh meal, *or on the fourth morning*, from the man, who behaves 'baſely *by not offering him food*, enough to ſupply him till the morrow:

17. 'He may take it from the floor, where the grain is trodden out 'of the huſk, or from the field, or from the houſe, or from any place 'whatever; but, if the owner aſk *why he takes it*, the cauſe of the 'taking muſt be declared.

18. 'The wealth of a virtuous *Bráhmen* muſt at no time be ſeized 'by a *Cſhatriya*; but, having no other means *to complete a ſacrifice*, he

'may

'may take the goods of any man, who acts wickedly, and of any, who 'performs not his religious duties:

19. 'He, who takes property from the bad *for the purpose before-'mentioned*, and bestows it on the good, transforms himself into a boat, 'and carries both *the good and the bad* over *a sea of calamities*.

20. 'Wealth, possessed by men for the performance of sacrifices, 'the wise call the property of the gods; but the wealth of men, who 'perform no sacrifice, they consider as the property of demons.

21. 'Let no pious king fine the man, *who takes by stealth or by force 'what he wants to make a sacrifice perfect*; since it is the king's folly, 'that causes the hunger or wants of a *Bráhmen:*

22. 'Having reckoned up the persons, whom the *Bráhmen* is obliged 'to support, having ascertained his divine knowledge and moral conduct, 'let the king allow him a suitable maintenance from his own household;

23. 'And, having appointed him a maintenance, let the king pro-'tect him on all sides; for he gains from the *Bráhmen*, whom he pro-'tects, a sixth part of *the reward for* his virtue.

24. 'Let no *Bráhmen* ever beg a gift from a *Súdra*; for, if he 'perform a sacrifice after such begging, he shall, in the next life, be 'born a *Chandála*.

25. 'The *Bráhmen*, who begs any articles for a sacrifice, and dis-'poses not of them all for that purpose, shall become a kite or a crow 'for a hundred years.

26. 'Any

26. 'Any evilhearted wretch, who, through covetoufnefs, fhall feize 'the property of the gods or of *Bráhmens*, fhall feed in another world 'on the orts of vultures.

27. 'The facrifice *Vaifwánarí* muft be conftantly performed on the 'firft day of the new year, or on the new moon of *Chaitra*, as an ex- 'piation for having omitted *through mere forgetfulnefs* the appointed 'facrifices of cattle and the rites of the moonplant:

28. 'But a twiceborn man, who, without neceffity, does an act al- 'lowed only in a cafe of neceffity, reaps no fruit from it hereafter: 'thus has it been decided.

29. 'By the *Vifwédévas*, by the *Sádhyas*, and by eminent *Rìfhis* 'of the facerdotal clafs, the fubftitute was adopted for the principal 'act, when they were apprehenfive of dying in times of eminent peril;

30. 'But no reward is prepared in a future ftate for that illminded 'man, who, when able to perform the principal facrifice, has recourfe 'to the fubftitute.

31. 'A Priest, who well knows the law, needs not complain to the 'king of any grievous injury; fince, even by his own power, he may 'chaftife thofe, who injure him:

32. 'His own power, *which depends on himfelf alone*, is mightier than 'the royal power, *which depends on other men:* by his own might, 'therefore, may a *Bráhmen* coerce his foes.

33. 'He may ufe, without hefitation, the powerful charms revealed 'to At'harvan, and *by him* to Angiras; for fpeech is the weapon 'of a *Bráhmen:* with that he may deftroy his oppreffors.

34. 'A foldier

34. 'A ſoldier may avert danger from himſelf by the ſtrength of his 'arm; a merchant and a mechanick, by their property; but the chief 'of the twiceborn, by holy texts and oblations to fire.

35. 'A prieſt, who performs his duties, who juſtly corrects *his children and pupils*, who adviſes expiations for ſin, and who loves all animated creatures, is truly called a *Bráhmen:* to him let no man ſay 'any thing unpropitious, nor uſe any offenſive language.

36. 'Let not a girl, nor a young woman *married or unmarried*, 'nor a man with little learning, nor a dunce, perform an oblation 'to fire; nor a man diſeaſed, nor one uninveſted *with the ſacrificial* '*ſtring*;

37. 'Since any of thoſe perſons, who make ſuch an oblation, ſhall 'fall into a region of torture, together with him, who ſuffers his hearth 'to be uſed: he alone, who perfectly knows the ſacred ordinances, 'and has read all the *Védas*, muſt officiate at an oblation to holy 'fire.

38. 'A *Bráhmen* with abundant wealth, who preſents not the prieſt, 'that hallows his fire, with a horſe conſecrated to PRAJA'PATI, becomes equal to one who has no fire hallowed.

39. 'Let him, who believes the ſcripture, and keeps his organs in 'ſubjection, perform all other pious acts; but never in this world let 'him offer a ſacrifice with trifling gifts to the officiating prieſt:

40. 'The organs of ſenſe and action, reputation *in this life*, a heavenly manſion *in the next*, life *itſelf*, a great name *after death*, children, '*and* cattle, are all deſtroyed by a ſacrifice offered with trifling preſents: let no man, therefore, ſacrifice without liberal gifts.

41. 'THE

41. ‘ The prieſt, who keeps a ſacred hearth, but voluntarily neg-
‘ lects *the morning and evening oblations to* his fires, muſt perform, *in the*
‘ *manner to be deſcribed*, the penance *chándráyana* for one month; ſince
‘ that *neglect* is equally ſinful with the ſlaughter of a ſon.

42. ‘ They, who receive property from a *Súdra* for the performance
‘ of rites to conſecrated fire, are contemned, as miniſters of the baſe,
‘ by all ſuch as pronounce texts of the *Véda*:

43. ‘ Of thoſe ignorant prieſts, who ſerve the holy fire for the wealth
‘ of a *Súdra*, the giver ſhall always tread on the foreheads, and thus
‘ paſs over miſeries *in the gloom of death*.

44. ‘ Every man, who does not an act preſcribed, or does an act
‘ forbidden, or is guilty of exceſs *even* in *legal* gratifications of the
‘ ſenſes, muſt perform an expiatory penance.

45. ‘ Some of the learned conſider an expiation as confined to invo-
‘ luntary ſin; but others, from the evidence of the *Véda*, hold it effec-
‘ tual even in the caſe of a voluntary offence:

46. ‘ A ſin, involuntarily committed, is removed by repeating cer-
‘ tain texts of the ſcripture; but a ſin committed intentionally, through
‘ ſtrange infatuation, by harſh penances of different ſorts.

47. ‘ If a twiceborn man, by the will of God in this world,
‘ or from his natural birth, have any corporeal mark of an expia-
‘ ble ſin committed in this or a former ſtate, he muſt hold no
‘ intercourſe with the virtuous, while his penance remains unper-
‘ formed.

48. 'Some evilminded perſons, for ſins committed in this life, and 'ſome for bad actions in a preceding ſtate, ſuffer a morbid change 'in their bodies:

49. 'A ſtealer of gold from a *Bráhmen* has whitlows on his nails; 'a drinker of ſpirits, black teeth; the ſlayer of a *Bráhmen*, a maraſ-'mus; the violator of his *guru's* bed, a deformity in the generative 'organs;

50. 'A malignant informer, fetid ulcers in his noſtrils; a falſe de-'tractor, ſtinking breath; a ſtealer of grain, the defect of ſome limb; 'a mixer *of bad wares with good*, ſome redundant member;

51. 'A ſtealer of dreſſed grain, dyſpepſia; a ſtealer of holy words, '*or an unauthorized reader of the ſcriptures*, dumbneſs; a ſtealer of 'clothes, leproſy; a horſeſtealer, lameneſs;

52. 'The ſtealer of a lamp, total blindneſs; the miſchievous ex-'tinguiſher of it, blindneſs in one eye; a delighter in hurting ſentient 'creatures, perpetual illneſs; an adulterer, windy ſwelling in his limbs:

53. 'Thus, according to the diverſity of actions, are born men de-'ſpiſed by the good, ſtupid, dumb, blind, deaf, and deformed.

54. 'Penance, therefore, muſt invariably be performed for the ſake 'of expiation; ſince they, who have not expiated their ſins, will again 'ſpring to birth with diſgraceful marks.

55. 'KILLING a *Bráhmen*, drinking forbidden liquor, ſtealing gold 'from a prieſt, adultery with the wife of a father, natural or ſpiritual, 'and aſſociating with ſuch as commit thoſe offences, wiſe legiſlators

'muſt

'must declare to be crimes in the highest degree, *in respect of those after* '*mentioned, but less than incest in a direct line, and some others.*

56. 'FALSE boasting of a high tribe, malignant information, before 'the king, of a criminal *who must suffer death*, and falsely accusing a 'spiritual preceptor, are crimes *in the second degree, and* nearly equal 'to killing a *Bráhmen.*

57. 'Forgetting the texts of scripture, showing contempt of the '*Véda*, giving false evidence *without a bad motive*, killing a friend *with-*'*out malice*, eating things prohibited, or, *from their manifest impurity*, 'unfit to be tasted, are six crimes nearly equal to drinking spirits; *but* '*perjury and homicide require in atrocious cases the harshest expiation.*

58. 'To appropriate a thing deposited *or lent for a time*, a human 'creature, a horse, precious metals, a field, a diamond, or any other 'gem, is nearly equal to stealing the gold of a *Bráhmen.*

59. 'Carnal commerce with sisters by the same mother, with little 'girls, with women of the lowest mixed class, or with the wives of a 'friend or of a son, the wise must consider as nearly equal to a viola-'tion of the paternal bed.

60. 'SLAYING a bull or cow, sacrificing what ought not to be sa-'crificed, adultery, selling oneself, deserting a preceptor, a mother, 'a father, or a son, omitting to read the scripture, and neglect of the 'fires *prescribed by the* Dhermasástra *only*,

61. 'The marriage of a younger brother before the elder, and that 'elder's omission to marry before the younger, giving a daughter to 'either of them, and officiating at their nuptial sacrifice,

62. 'Defiling

62. 'Defiling a damſel, uſury, want of perfect chaſtity in a ſtudent, 'ſelling a holy pool or garden, a wife, or a child,

63. 'Omitting the ſacred inveſtiture, abandoning a kinſman, teach- 'ing the *Véda* for hire, learning it from a hired teacher, ſelling com- 'modities, that ought not to be ſold,

64. 'Working in mines of any ſort, engaging in *dykes, bridges, or* '*other* great mechanical works, ſpoiling medicinal plants *repeatedly*, 'ſubſiſting by *the harlotry of* a wife, offering ſacrifices and preparing 'charms to deſtroy *the innocent*,

65. 'Cutting down green trees for firewood, performing holy rites 'with a ſelfiſh view merely, and eating prohibited food *once without a* '*previous deſign*,

66. 'Neglecting to keep up the conſecrated fire, ſtealing *any valua-* '*ble thing beſides gold*, nonpayment of *the three* debts, application to 'the books of a falſe religion, and exceſſive attention to muſick or 'dancing,

67. 'Stealing grain, baſe metals, or cattle, familiarity *by the twice-* '*born* with women, who have drunk inebriating liquor, killing *without* '*malice* a woman, *a Súdra, a Vaiſya*, or a *Cſhatriya*, and denying a 'future ſtate of rewards and puniſhments, are all crimes in the third 'degree, *but higher or lower according to circumſtances*.

68. 'Giving pain to a *Bráhmen*, ſmelling at any ſpirituous liquor 'or any thing *extremely fetid and* unfit to be ſmelt, cheating, and un- 'natural practices with a male, are conſidered as cauſing a loſs of 'claſs.

69. 'To

69. 'To kill an aſs, a horſe, a camel, a deer, an elephant, a goat, 'a ſheep, a fiſh, a ſnake, or a buffalo, is declared an offence, which 'degrades the killer to a mixed tribe.

70. 'Accepting preſents from deſpicable men, illegal traffick, at- 'tendance on a *Súdra* maſter, and ſpeaking falſehood, muſt be conſi- 'dered as cauſes of excluſion from ſocial repaſts.

71 'Killing, an inſect, ſmall or large, a worm, or a bird, eating 'what has been brought *in the ſame baſket* with ſpirituous liquor, ſteal- 'ing fruit, wood, or flowers, and great perturbation of mind on trifling 'occaſions, are offences which cauſe defilement.

72. 'You ſhall now be completely inſtructed in thoſe penances, by 'which all the ſins juſt mentioned are expiable.

73. 'If a *Bráhmen* have killed a man of the ſacerdotal claſs, *without* '*malice prepenſe, the ſlayer being far ſuperior to the ſlain in good qualities*, 'he muſt himſelf make a hut in a foreſt and dwell in it twelve whole 'years, ſubſiſting on alms for the purification of his ſoul, placing near 'him, as a token *of his crime, the ſkull of the ſlain, if he can procure it, or,* '*if not, any human ſkull. The time of penance for the three lower claſſes* '*muſt be twenty four, thirty ſix, and forty eight, years.*

74. 'Or, *if the ſlayer be of the military claſs,* he may voluntarily ex- 'poſe himſelf as a mark to archers, who know *his intention*; or, *ac-* '*cording to circumſtances*, may caſt himſelf headlong thrice, or even 'till he die, into blazing fire.

75. 'Or, *if he be a king, and ſlew a prieſt without malice or knowledge* '*of his claſs*, he may perform, *with preſents of great wealth,* one of the 'following

'following ſacrifices; an *Aſwamédha*, or a *Swerjit*, or a *Góſava*, or an 'Abhijit, or a *Viſwajit*, or a *Trivrĭt*, or an *Agniſhtut*.

76. 'Or, to expiate the guilt of killing a prieſt *without knowing him* '*and without deſign*, the killer may walk *on a pilgrimage* a hundred '*yójanas*, repeating any one of the *Védas*, eating barely enough to ſuſ-'tain life, and keeping his organs in perfect ſubjection;

77. 'Or, *if in that caſe the ſlayer be unlearned but rich*, he may give all 'his property to ſome *Bráhmen* learned in the *Véda*, or a ſufficiency of 'wealth for his life, or a houſe and furniture *to hold while he lives*:

78. 'Or, eating only ſuch wild grains as are offered to the gods, he 'may walk to *the head of* the river *Saraſwatì* againſt the courſe of the 'ſtream; or, ſubſiſting on very little food, he may thrice repeat the 'whole collection of *Védas*, or the *Rĭch*, *Yajuſh*, and *Sáman*.

79. 'Or, his hair being ſhorn, he may dwell near a town, or on 'paſtureground for cows, or in ſome holy place, or at the root of a 'ſacred tree, taking pleaſure in doing good to cows and to *Bráh*-'*mens*;

80. 'There, for the preſervation of a cow or a *Bráhmen*, let him 'inſtantly abandon life; ſince the preſerver of a cow or a *Bráhmen* 'atones for the crime of killing a prieſt:

81. 'Or, by attempting at leaſt three times forcibly to recover *from* '*robbers* the property of a *Bráhmen*, or by recovering it in one of his 'attacks, or even by loſing his life in the attempt, he atones for his 'crime.

82. 'Thus,

82. 'Thus, continually firm in religious auſterity, chaſte as a ſtudent
'in the firſt order, with his mind intent on virtue, he may expiate
'the guilt of *undeſignedly* killing a *Bráhmen*, after the twelfth year has
'expired.

83. 'Or, *if a virtuous* Bráhmen *unintentionally kill another*, *who had
'no good quality*, he may atone for his guilt by proclaiming it in an aſ-
'ſembly of prieſts and military men, at the ſacrifice of a horſe, and by
'bathing with other *Bráhmens* at the cloſe of the ſacrifice:

84. '*Bráhmens* are declared to be the baſis, and *Cſhatriyas* the ſummit,
'of the legal ſyſtem: he, therefore, expiates his offence by fully pro-
'claiming it in ſuch an aſſembly.

85. 'From his high birth alone, a *Bráhmen* is an object of venera-
'tion even to deities: his declarations to mankind are deciſive evi-
'dence; and the *Véda* itſelf confers on him that character.

86. 'Three at leaſt, who are learned in the *Véda*, ſhould be aſ-
'ſembled to declare the proper expiation for the ſin *of a prieſt*, *but*, *for
'the three other claſſes*, *the number muſt be doubled*, *tripled*, *and quadru-
'pled:* what they declare ſhall be an atonement for ſinners; ſince the
'words of the learned give purity.

87. 'Thus a *Bráhmen*, who has performed one of the preceding ex-
'piations, *according to the circumſtances of the homicide and the charac-
'ters of the perſons killed and killing*, with his whole mind fixed on GOD,
'purifies his ſoul, and removes the guilt of ſlaying a man of his own claſs:

88. 'He muſt perform the ſame penance for killing an embryo, *the
'ſex of which was* unknown, but whoſe parents were *ſacerdotal*, or a
'military

'military or a commercial man employed in a ſacrifice, or a *Bráhmenì*
'woman, who has bathed after temporary uncleanneſs;

89. 'And *the ſame* for giving falſe evidence *in a cauſe concerning land or gold or precious commodities*, and for accuſing his preceptor unjuſtly, and for appropriating a depoſit, and for killing the wife of a prieſt, *who keeps a conſecrated fire*, or for ſlaying a friend.

90. 'Such is the atonement ordained for killing a prieſt *without malice*; but for killing a *Bráhmen* with malice prepenſe, this is no expiation: *the term of twelve years muſt be doubled, or, if the caſe was atrocious, the murderer muſt actually die in flames or in battle.*

91. 'Any twiceborn man, who has *intentionally* drunk ſpirit of rice, through perverſe deluſion of mind, may drink more ſpirit in flame, and atone for his offence by ſeverely burning his body;

92. 'Or he may drink boiling hot, until he die, the urine of a cow, or pure water, or milk, or clarified butter, or juice expreſſed from cowdung:

93. 'Or, *if he taſted it unknowingly*, he may expiate the ſin of drinking ſpirituous liquor, by eating only ſome broken rice or grains of *tila*, from which oil has been extracted, once every night for a whole year, wrapped in coarſe veſture of hairs from a cow's tail, *or ſitting unclothed in his houſe*, wearing his locks and beard uncut, and putting out the flag of a tavern-keeper.

94. 'Since the ſpirit of rice is *diſtilled from the* Mala, *or* filthy refuſe, of the grain, and ſince *Mala* is alſo a name for ſin, let no *Bráhmen*, *Cſhatriya*, or *Vaiſya* drink that ſpirit.

95. 'Inebriating

95. ‘ Inebriating liquor may be conſidered as of three *principal* ſorts; ‘ that extracted from dregs of ſugar, that extracted from bruiſed rice, ‘ and that extracted from the flowers of the *Madhúca:* as one, ſo *are* ‘ all; they ſhall not be taſted by the chief of the twiceborn.

96. ‘ Thoſe liquors, and *eight* other ſorts, with the fleſh of animals, ‘ and *A'ſava*, the moſt pernicious beverage, *prepared with narcotick* ‘ *drugs*, are ſwallowed at the juncates of *Yacſhas*, *Racſhaſas*, and *Pi-* ‘ *ſáchas:* they ſhall not, therefore, be taſted by a *Bráhmen*, who feeds ‘ on clarified butter offered to gods.

97. ‘ A *Bráhmen*, ſtupefied by drunkenneſs, might fall on ſomething ‘ very impure, or might even, when intoxicated, pronounce a ſecret ‘ phraſe of the *Véda*, or might do ſome other act, which ought not to ‘ be done.

98. ‘ When the divine ſpirit, *or the light of holy knowledge*, which ‘ has been infuſed into his body, has once been ſprinkled with any in- ‘ toxicating liquor, even his prieſtly character leaves him, and he ſinks ‘ to the low degree of a *Súdra*.

99. ‘ Thus have been promulgated the various modes of expiation for ‘ drinking ſpirits: I will next propound the atonement for ſtealing the ‘ gold of a prieſt *to the amount of a* ſuverna.

100. ‘ He, who has purloined the gold of a *Bráhmen*, muſt haſten ‘ to the king, and proclaim his offence; adding, “ Inflict on me the “ puniſhment due to my crime.”

101. ‘ Then ſhall the king himſelf, taking from him an iron mace, ‘ *which the criminal muſt bear on his ſhoulder*, ſtrike him with it once;

‘ and

'and by that ſtroke, *whether he die or be only left as dead*, the thief is re-'leaſed from ſin: a *Bráhmen* by rigid penance alone *can expiate that 'offence*; *another twiceborn man may alſo perform ſuch a penance* at his 'election.

102. 'The twiceborn man, who deſires to remove by auſtere devo-'tion the taint cauſed by ſtealing gold, muſt perform in a foreſt, 'covered with a mantle of rough bark, the penance *before ordained* for 'him, who *without malice prepenſe* has killed a *Bráhmen*.

103. 'By theſe expiations may the twiceborn atone for the guilt of 'ſtealing gold from a prieſt; but the ſin of adultery with the wife 'of a father, *natural or ſpiritual*, they muſt expiate by the following 'penances.

104. 'He, who *knowingly and actually* has defiled the wife of his 'father, *ſhe being of the ſame claſs*, muſt extend himſelf on a heated 'iron bed, loudly proclaiming his guilt; and, there embracing the red-'hot iron image of a woman, he ſhall atone for his crime by death;

105. 'Or, having himſelf amputated his penis and ſcrotum, and 'holding them in his fingers, he may walk in a direct path toward 'the ſouthweſt, or the region of NIRRĬTI, until he fall dead on the 'ground:

106. 'Or, *if he had miſtaken her for another woman*, he may perform 'for a whole year, with intenſe application of mind, the penance *prá-'jápatya*, with part of a bed, *or a human bone*, in his hand, wrapped in 'veſture of coarſe bark, letting his hair and beard grow, and living 'in a deſerted foreſt:

107. 'Or,

107. 'Or, *if ſhe was of a lower claſs and a corrupt woman,* he may 'expiate the ſin of violating the bed of his father, by continuing the 'penance *chándráyana* for three months, always mortifying his body 'by eating only foreſt herbs, or wild grains boiled in water.

108. 'By the preceding penances may ſinners of the two higher 'degrees atone for their guilt; and the leſs offenders may expiate theirs 'by the following auſterities.

109. 'He, who has committed the ſmaller offence of killing a cow '*without malice,* muſt drink for the firſt month barleycorns boiled ſoft 'in water; his head muſt be ſhaved entirely; and, covered with the 'hide *of the ſlain cow,* he muſt fix his abode on her late paſture ground:

110. 'He may eat a moderate quantity of *wild grains,* but without 'any factitious ſalt, for the next two months at the time of each fourth 'repaſt, *on the evening of every ſecond day*; regularly bathing in the 'urine of cows, and keeping his members under controul:

111. 'All day he muſt wait on the herd, and ſtand quaffing the duſt 'raiſed *by their hoofs*; at night, having ſervilely attended and ſtroked 'and ſaluted them, he muſt ſurround them with a fence, and ſit near '*to guard* them:

112. 'Pure and free from paſſion, he muſt ſtand, while they ſtand; 'follow them, when they move together; and lie down by them, 'when they lie down:

113. 'Should a cow be ſick or terrified by tigers or thieves, or fall, 'or ſtick in mud, he muſt relieve her by all poſſible means:

114. 'In

114. 'In heat, in rain, or in cold, or while the blaſt furiouſly rages, 'let him not ſeek his own ſhelter, without firſt ſheltering the cows to 'the utmoſt of his power

115. 'Neither in his own houſe, or field, or floor for treading out 'grain, nor in thoſe of any other perſon, let him ſay a word of a cow, 'who eats *corn or graſs*, or of a calf, who drinks *milk:*

116. 'By waiting on a herd, according to theſe rules, for three 'months, the ſlayer of a cow atones for his guilt;

117. '*But*, his penance being performed, he muſt give ten cows 'and a bull, or, his ſtock not being ſo large, muſt deliver all he 'poſſeſſes, to ſuch as beſt know the *Véda*.

118. 'THE preceding penances, or that called *chándráyana*, muſt be 'performed for the abſolution of all twiceborn men, who have com-'mitted ſins of the lower *or third* degree; except thoſe, who have in-'curred the guilt of an *avacírna*;

119. 'But he, who has become *Avacírní*, muſt ſacrifice *a black or* a 'oneeyed aſs, by way of a meatoffering to NIRRĬTI, *patroneſs of the* '*ſouthweſt*, by night in a place where four ways meet:

120. 'Let him daily offer to her in fire the fat of that aſs, and, 'at the cloſe *of the ceremony*, let him offer clarified butter, with the 'holy text *Sem* and ſo forth, to PAVANA, to INDRA, to VRĬHASPATI, 'and to AGNI, *regents of wind, clouds, a planet, and fire*.

121. 'A voluntary effuſion, *naturally or otherwiſe*, of that which 'may produce a man, by a twiceborn youth during the time of his

'ſtudentſhip,

'studentship, *or before marriage*, has been pronounced *avacírna*, or a 'violation of the rule prescribed *for the first order*, by sages, who 'knew the whole system of duty, and uttered the words of the *Véda*.

122. 'To the four *deities of purification*, MA'RUTA, INDRA, VRĬHASPATI, AGNI, goes all the divine light, which the *Véda* had imparted, 'from the student, who commits the foul sin *avacírna*;

123. 'But, this crime having actually been committed, he must go 'begging to seven houses, clothed only with the hide of the *sacrificed* 'ass, and openly proclaiming his act:

124. 'Eating a single meal begged from them, at the regular time 'of the day, *that is, in the morning or evening*, and bathing *each day* at 'the three *savanas*, he shall be absolved from his guilt at the end of 'one year.

125. 'HE, who has voluntarily committed any sin, which causes 'a loss of class, must perform the *tormenting* penance, *thence* called '*sántapana*; or the *prájápatya*, if he offended involuntarily.

126. 'FOR sins, which degrade to a mixed class, or exclude from 'society, the sinner must have recourse to the *lunar* expiation *chándráyana* for one month: to atone for acts, which occasion defilement, 'he must swallow nothing for three days but hot barleygruel.

127. 'FOR killing *intentionally* a *virtuous* man of the military class, 'the penance must be a fourth part of that ordained for killing a priest; 'for killing a *Vaisya*, only an eighth; for killing a *Súdra*, who had 'been constant in *discharging* his duties, a sixteenth part:

128. 'But,

128. 'But, if a *Bráhmen* kill a *Cshatriya* without malice, he must, 'after a full performance of his religious rites, give the priests one 'bull together with a thousand cows;

129. 'Or he may perform for three years the penance for slaying a '*Bráhmen*, mortifying his organs of sensation and action, letting his 'hair grow long, and living remote from the town, with the root of a 'tree for his mansion.

130. 'If he kill *without malice* a *Vaisya*, who had a good moral 'character, he may perform the same penance for one year, or give 'the priests a hundred cows and a bull:

131. 'For six months must he perform this whole penance, if '*without intention* he kill a *Súdra*; or he may give ten white cows 'and a bull to the priests.

132. 'If he kill *by design* a cat, or an ichneumon, the bird *Chásha*, 'or a frog, a dog, a lizard, an owl, or a crow, he must perform the '*ordinary* penance required for the death of a *Súdra*, that is, the *chán*-'*dráyana*:

133. 'Or, *if he kill one of them undesignedly*, he may drink nothing 'but milk for three *days and* nights, or *each night* walk a *yógan*, or '*thrice* bathe in a river, or silently repeat the text on the divinity of 'water; *that is, if he be disabled by real infirmity from performing the* '*first mentioned penances, he may have recourse to the next in order.*

134. 'A *Bráhmen*, if he kill a snake, must give *to some priest* a hoe, '*or ironheaded stick*; if an eunuch, a load of ricestraw, and a *másha* of 'lead;

135. 'If

135. 'If a boar, a pot of clarified butter; if the bird *tittiri*, a *dróna* 'of *tila* ſeeds: if a parrot, a ſteer two years old; if the waterbird '*crauncha*, a ſteer aged three years:

136. 'If he kill *a gooſe, or* a phenicopteros, a *heron, or* cormorant, 'a bittern, a peacock, an ape, a hawk, or a kite, he muſt give a cow 'to ſome *Bráhmen:*

137. 'If he kill a horſe, he muſt give a mantle; if an elephant, 'five black bulls; if a goat or a ſheep, one bull; if an aſs, a calf one 'year old:

138. 'If he kill a carnivorous wild beaſt, he muſt give a cow with 'abundance of milk; if a wild beaſt not carnivorous, a fine heifer; 'and a *ractícá* of gold, if he ſlay a camel:

139. 'If he kill a woman *of any claſs* caught in adultery, he muſt 'give as an expiation, in the direct order of the four claſſes, a lea-'thern pouch, a bow, a goat, and a ſheep.

140. 'Should a *Bráhmen* be unable to expiate by gifts the ſin of 'killing a ſnake and the reſt, he muſt atone for his guilt by perform-'ing, on each occaſion, the penance *prájápatya.*

141. 'For the ſlaughter of a thouſand ſmall animals which have 'bones, or for that of boneleſs animals enow to fill a cart, he muſt 'perform the *chándráyana*, or common penance for killing a *Súdra*;

142. 'But, for killing boned animals, he muſt alſo give ſome trifle, '*as a* pana *of copper*, to a *Bráhmen:* for killing thoſe without bones, 'he may be abſolved by holding his breath, *at the cloſe of his penance*, while,

'while he thrice repeats the *gáyatrì* with its *head*, the *pranava*, and 'the *vyáhrĭtis*.

143. 'For cutting *once without malice* trees yielding fruit, ſhrubs 'with many crowded ſtems, creeping or climbing plants, or ſuch as 'grow again when cut, if they were in bloſſom *when he hurt them*, he 'muſt repeat a hundred texts of the *Véda*.

144. 'For killing inſects of any ſort bred in rice or other grains, or 'thoſe bred in honey *or other* fluids, or thoſe bred in fruit or flowers, 'eating clarified butter is a full expiation.

145. 'If a man cut, *wantonly and* for no good purpoſe, ſuch graſſes 'as are cultivated, or ſuch as riſe in the foreſt ſpontaneouſly, he muſt 'wait on a cow for one day, nouriſhed by milk alone.

146. 'By theſe penances may mankind atone for the ſin of injuring 'ſentient creatures, whether committed by deſign or through inadver-'tence: hear now what penances are ordained for eating or drinking 'what ought not to be taſted.

147. 'He, who drinks undeſignedly any ſpirit *but that of rice*, may 'be abſolved by a new inveſtiture with the ſacrificial ſtring: even for 'drinking intentionally *the weaker ſorts of ſpirit*, a penance extending 'to death muſt not (as the law is now fixed) be preſcribed.

148. 'For drinking water which has ſtood in a veſſel, where 'ſpirit of rice or any other ſpirituous liquor had been kept, he muſt 'ſwallow nothing, for five *days and* nights, but the plant *ſanc'hapuſhpì* 'boiled in milk:

149. 'If

149. ‘ If he touch any ſpirituous liquor, or give any away, or ac-
‘ cept any in due form, *or with thanks*, or drink water left by a *Súdra*,
‘ he muſt ſwallow nothing, for three *days and* nights, but *cuśa*-graſs
‘ boiled in water.

150. ‘ Should a *Bráhmen*, who has once taſted the holy juice of the
‘ moonplant, even ſmell the breath of a man who has been drinking
‘ ſpirits, he muſt remove the taint by thrice repeating the *gáyatrì*,
‘ while he ſuppreſſes his breath in water, and by eating clarified but-
‘ ter *after that ceremony*.

151. ‘ If any of the three twiceborn claſſes have taſted unknow-
‘ ingly human ordure or urine, or any thing that has touched ſpi-
‘ rituous liquor, they muſt, *after a penance*, be girt anew with the
‘ ſacrificial thread;

152. ‘ But, in ſuch new inveſtiture of the twiceborn, the partial ton-
‘ ſure, the zone, the ſtaff, the petition of alms, and the ſtrict rules of
‘ abſtinence, need not be renewed.

153. ‘ Should one of them eat the food of thoſe perſons, with
‘ whom he ought never to eat, or food left by a woman or a *Súdra*, or
‘ any prohibited fleſh, he muſt drink barleygruel only for ſeven *days*
‘ *and* nights.

154. ‘ If a *Bráhmen* drink ſweet liquors turned acid, or aſtringent
‘ juices from impure fruits, he becomes unclean, as long as thoſe fluids
‘ remain undigeſted.

155. ‘ Any twiceborn man, who *by accident* has taſted the dung or
‘ urine of a tame boar, an aſs, a camel, a ſhakal, an ape, or a crow,
‘ muſt perform the penance *chándráyana:*

156. ‘ If he taſte dried fleſhmeat, or muſhrooms riſing from the ‘ ground, or any thing brought from a ſlaughter-houſe, though he ‘ knew not whence it came, he muſt perform the ſame penance.

157. ‘ For *knowingly* eating the fleſh of carnivorous beaſts, of town-‘ boars, of camels, of gallinaceous birds, of human creatures, of crows, ‘ or of aſſes, the penance *taptacrĭch'hra*, or *burning and ſevere*, is the ‘ only atonement.

158. ‘ A *Bráhmen*, who, before he has completed his theological ‘ ſtudies, eats food at monthly obſequies *to one anceſtor*, muſt faſt three ‘ days *and nights*, and ſit in water a day :

159. ‘ But a ſtudent in theology, who at any time *unknowingly* taſtes ‘ honey or fleſh, muſt perform the loweſt penance, or the *prájápatya*, ‘ and proceed to finiſh his ſtudentſhip.

160. ‘ Having eaten what has been left by a cat, a crow, a mouſe, a ‘ dog, or an ichneumon, or what has even been touched by a louſe, he ‘ muſt drink, *boiled in water*, the plant *brahmaſuverchalá*.

161. ‘ By the man, who ſeeks purity of ſoul, no forbidden food muſt ‘ be taſted : what he has undeſignedly ſwallowed he muſt inſtantly ‘ vomit up, or muſt purify himſelf with ſpeed by legal expiations.

162. ‘ Such, as have been declared, are the various penances for eating ‘ prohibited food : hear now the law of penance for an expiation of theft.

163. ‘ The chief of the twiceborn, having voluntarily ſtolen ſuch ‘ property, as grain, raw or dreſſed, from the houſe of another *Bráh-‘ men*, ſhall be abſolved on performing the penance *prájápatya* for a ‘ whole year ;

164. ‘ But

164. ‘ But the penance *chándráyana* muſt be performed for ſtealing a ‘ man, woman, or child, for ſeizing a field, or a houſe, or for taking ‘ the waters of an encloſed pool or well.

165. ‘ Having taken goods of little value from the houſe of another ‘ man, he muſt procure abſolution by performing the penance *ſánta-* ‘ *pana* ; having firſt reſtored, *as the penitent thief always muſt*, the goods ‘ that he ſtole.

166. ‘ For taking what may be eaten, or what may be ſipped, a car- ‘ riage, a bed, or a ſeat, roots, flowers, or fruit, an atonement may ‘ be made by ſwallowing the five pure things produced from a cow, ‘ *or milk, curds, butter, urine, dung :*

167. ‘ For ſtealing graſs, wood, or trees, rice in the huſk, molaſſes, ‘ cloth or leather, fiſh, or other animal food, a ſtrict faſt muſt be kept ‘ three *days and three* nights.

168. ‘ For ſtealing gems, pearls, coral, copper, ſilver, iron, braſs, ‘ or ſtone, nothing but broken rice muſt be ſwallowed for twelve ‘ days ;

169. ‘ And nothing but milk for three days, if cotton, or ſilk, or ‘ wool had been ſtolen, or a beaſt either with cloven or uncloven hoofs, ‘ or a bird, or perfumes, or medicinal herbs, or cordage.

170. ‘ By theſe penances may a twiceborn man atone for the ‘ guilt of theft ; but the following auſterities only can remove the ‘ ſin of carnally approaching thoſe, who muſt not be carnally ap- ‘ proached.

171. ‘ He,

171. 'He, who has wafted his manly ftrength with fifters by the 'fame womb, with the wives of his friend or of his fon, with girls 'under the age of puberty, or with women of the loweft claffes, 'muft perform the penance ordained for defiling the bed of a pre-'ceptor:

172. 'He, who has carnally known the daughter of his paternal 'aunt, *who is almoft equal to* a fifter, or the daughter of his maternal 'aunt, or the daughter of his maternal uncle, *who is* a near kinfman, 'muft perform the *chándráyana*, or *lunar penance*;

173. 'No man of fenfe would take one of thofe three as his wife: 'they fhall not be taken in marriage by reafon of their confanguinity; 'and he, who marries any one of them, falls deep *into fin*.

174. 'He, who has wafted, what might have produced a man, with 'female brute animals, with a woman during her courfes, or in any 'but the natural part, or in water, muft perform the penance *fán-'tapana: for a beftial act with a cow the penance muft be far more fe-'vere.*

175. 'A twiceborn man, dallying lafcivioufly with a male *in any 'place or at any time*, or with a female in a carriage drawn by bullocks, 'or in water, or by day, *fhall be degraded, and* muft bathe himfelf *pub-'lickly* with his apparel.

176. 'Should a *Bráhmen* carnally know a woman of the *Chandála* or '*Mléch'ha* tribes, or tafte their food, or accept a gift from them, he 'lofes his own clafs, *if he acted unknowingly*, or, *if knowingly*, finks to 'a level *with them*.

177. 'A wife, exceſſively corrupt, let her huſband confine to one 'apartment, and compel her to perform the penance ordained for a 'man, who has committed adultery:

178. 'If, having been ſolicited by a man of her own claſs, ſhe 'again be defiled, her expiation muſt be the penance *prájápatya* added 'to the *chándráyana*.

179. 'The guilt of a *Bráhmen*, who has dallied a whole night with 'a *Chandálí* woman, he may remove in three years by ſubſiſting on 'alms, and inceſſantly repeating the *gáyatrì* with other myſterious 'texts.

180. 'Theſe penances have been declared for ſinners of four ſorts, '*thoſe who hurt ſentient creatures, thoſe who eat prohibited food, thoſe 'who commit theft, and thoſe who are guilty of laſciviouſneſs:* hear now 'the preſcribed expiation for ſuch, as hold any intercourſe with de-'graded offenders.

181. 'He, who aſſociates himſelf for one year with a fallen ſinner, 'falls like him; not by ſacrificing, reading the *Véda*, or contracting 'affinity with him, *ſince by thoſe acts he loſes his claſs immediately*, but 'even by uſing the ſame carriage or ſeat, or by taking his food at the 'ſame board:

182. 'That man, who holds an intercourſe with any one of thoſe 'degraded offenders, muſt perform, as an atonement for ſuch inter-'courſe, the penance ordained for that ſinner himſelf.

183. 'The *ſapindas* and *ſamánódacas* of a man degraded, *for a crime 'in the firſt degree*, muſt offer a libation of water to his manes, *as if*

'*he*

'*he were naturally dead*, out of the town, in the evening of ſome in-
'auſpicious day, *as the ninth of the moon*, his paternal kinſmen, his
'officiating prieſt, and his ſpiritual guide being preſent.

184. 'A female ſlave muſt kick down with her foot an old pot filled
'with water, *which had for that purpoſe been placed towards the ſouth*,
'as if it were an oblation for the dead; and all the kinſmen, in the
'nearer and remoter degrees, muſt remain impure for a day and a
'night:

185. 'They muſt thenceforth deſiſt from ſpeaking to him, from ſit-
'ting in his company, from delivering to him any inherited or other
'property, and from every civil or uſual attention, *as inviting him on*
'*the firſt day of the year, and the like*.

186. 'His right of primogeniture, *if he was an elder brother*, muſt
'be withholden from him, and whatever perquiſites ariſe from priority
'of birth: a younger brother, excelling him in virtue, muſt appro-
'priate the ſhare of the firſtborn.

187. 'But, when he has performed his due penance, his kinſmen
'and he muſt throw down a new veſſel full of water, after having
'bathed together in a pure pool:

188. 'Then muſt he caſt that veſſel into the water; and, having en-
'tered his houſe, he may perform, as before, all the acts incident to his
'relation by blood.

189. 'The ſame ceremony muſt be performed by the kindred even
'of women degraded, for whom clothes, dreſſed rice, and water muſt
'be provided; and they muſt dwell *in huts* near the family houſe.

190. 'With

190. ‘ With ſinners, whoſe expiations are unperformed, let not a ‘ man tranſact buſineſs of any kind; but thoſe, who have performed ‘ their expiations, let him at no time reproach:

191. ‘ Let him not, however, live with thoſe, who have ſlain chil- ‘ dren, or injured their benefactors, or killed ſuppliants for protection, ‘ or put women to death, even though ſuch offenders have been legally ‘ purified.

192. ‘ THOSE men of the twiceborn claſſes, to whom the *gáyatrì* ‘ has not been repeated and explained, according to law, the aſſembly ‘ muſt cauſe to perform three *prájápatya* penances, and *afterwards* to be ‘ girt with the ſacrificial ſtring;

193. ‘ And the ſame penance they muſt preſcribe to ſuch twiceborn ‘ men, as are anxious to atone for ſome illegal act, or a neglect of the ‘ *Véda*.

194. ‘ IF prieſts have accepted any property from baſe hands, they ‘ may be abſolved by relinquiſhing the preſents, by repeating myſterious ‘ texts, and by acts of devotion:

195. ‘ By three thouſand repetitions of the *gáyatrì* with intenſe ap- ‘ plication of mind, and by ſubſiſting on milk only for a whole month ‘ in the paſture of cows, a *Bráhmen*, who has received any gift from a ‘ bad man, *or a bad gift from any man*, may be cleared from ſin.

196. ‘ When he has been mortified by abſtinence, and has returned ‘ from the paſturage, let him bend low to the other *Bráhmens*, who ‘ muſt thus interrogate him: “ Art thou really deſirous, good man, of “ readmiſſion to an equality with us?”

197. ‘ If

197. ‘If he anſwer in the affirmative, let him give ſome graſs to
‘ the cows, and in the place, made pure by their having eaten on it,
‘ let the men of his claſs give their aſſent to his readmiſſion.

198. ‘He, who has officiated at a ſacrifice for outcaſts, or burned
‘ the corpſe of a ſtranger, or performed rites to deſtroy the innocent,
‘ or made the impure ſacrifice, called *Abína*, may expiate his guilt by
‘ three *prájápatya* penances.

199. ‘A twiceborn man, who has rejected a ſuppliant for his pro-
‘ tection, or taught the *Véda* on a forbidden day, may atone for his
‘ offence by ſubſiſting a whole year on barley alone.

200. ‘He, who has been bitten by a dog, a ſhakal, or an aſs, by
‘ any carnivorous animal frequenting a town, by a man, a horſe, a
‘ camel, or a boar, may be purified by ſtopping his breath during one
‘ repetition of the *gáyatrì*.

201. ‘To eat only at the time of the ſixth meal, *or on the evening of*
‘ *every third day*, for a month, to repeat a *Sanhità* of the *Védas*, and to
‘ make *eight* oblations to fire, accompanied with *eight* holy texts, are al-
‘ ways an expiation for thoſe, who are excluded from ſociety at repaſts.

202. ‘Should a *Bráhmen* voluntarily aſcend a carriage borne by
‘ camels or drawn by aſſes, or deſignedly bathe quite naked, he may
‘ be abſolved by one ſuppreſſion of breath, while he repeats in his
‘ mind the moſt holy text.

203. ‘He, who has made any excretion, being greatly preſſed,
‘ either without water *near him*, or in water, may be purified by bath-
‘ ing in his clothes out of town, and by touching a cow.

204. ‘For

204. 'For an omiſſion of the acts, which the *Véda* commands to be 'conſtantly performed, and for a violation of the duties preſcribed to a 'houſekeeper, the atonement is faſting *one day*.

205. 'He, who ſays huſh or piſh to a *Bráhmen*, or thou *to a ſuperior*, 'muſt *immediately* bathe, eat nothing for the reſt of the day, and ap-'peaſe him by claſping his feet with reſpectful ſalutation.

206. 'For ſtriking a *Bráhmen* even with a blade of graſs, or tying him 'by the neck with a cloth, or overpowering him in argument, and adding 'contemptuous words, the offender muſt ſoothe him by falling proſtrate.

207. 'An aſſaulter of a *Bráhmen*, with intent to kill, ſhall remain 'in hell a hundred years; for actually ſtriking him *with the like intent*, 'a thouſand:

208. 'As many ſmall pellets of duſt as the blood of a *Bráhmen* col-'lects on the ground, for ſo many thouſand years muſt the ſhedder of 'that blood be tormented in hell.

209. 'For a ſimple aſſault, the firſt *or common* penance muſt be per-'formed; for a battery, the *third or* very ſevere penance; but for ſhed-'ding blood, *without killing*, both of thoſe penances.

210. 'To remove the ſins, for which no particular penance has been 'ordained, the aſſembly muſt award a fit expiation, conſidering the 'ability of the ſinner *to perform it*, and the *nature of the* ſin.

211. 'Those penances, by which a man may atone for his crimes, 'I now will deſcribe to you; penances, which have been performed by 'deities, by holy ſages, and by forefathers *of the human race*.

212. ‘ WHEN a twiceborn man performs the *common* penance, *or* ‘ *that* of PRAJA'PATI, he muſt for three days eat only in the morn- ‘ ing; for three days, only in the evening; for three days, food unaſked ‘ *but preſented to him*; and for three more days, nothing.

213. ‘ Eating *for a whole day* the dung and urine of cows mixed with ‘ curds, milk, clarified butter, and water boiled with *cus'a*-graſs, and ‘ then faſting entirely for a *day and a* night, is the penance called *Sán-* ‘ *tapana*, either from the devout man SANTAPANA, or from *tormenting*.

214. ‘ A twiceborn man performing the penance, called very ſevere, ‘ *in reſpect of the common*, muſt eat, as before, a ſingle mouthful, *or a* ‘ *ball of rice as large as a hen's egg*, for three times three days; and for ‘ the laſt three days, muſt wholly abſtain from food.

215. ‘ A *Bráhmen*, performing the ardent penance, muſt ſwallow ‘ nothing but hot water, hot milk, hot clarified butter, and hot ſteam, ‘ each of them for three days ſucceſſively, performing an ablution and ‘ mortifying all his members.

216. ‘ A total faſt for twelve days *and nights*, by a penitent with his ‘ organs controlled and his mind attentive, is the penance named *pa-* ‘ *ráca*, which expiates all *degrees of* guilt.

217. ‘ If he diminiſh his food by one mouthful *each day* during the ‘ dark fortnight, *eating fifteen mouthfuls on the day of the oppoſition*, and ‘ increaſe it *in the ſame proportion*, during the bright fortnight, *faſting* ‘ *entirely on the day of the conjunction*, and perform an ablution regularly at ‘ ſunriſe, noon, and ſunſet, this is the *chándráyana*, or the lunar penance:

218. ‘ Such is the *penance* called ant-ſhaped *or narrow in the middle*; ‘ but, if he perform the barley-ſhaped *or broad in the middle*, he muſt

‘ obſerve

'observe the same rule, beginning with the bright halfmonth, and 'keeping under command his organs of action and sense.

219. 'To perform the lunar penance of an anchoret, he must eat 'only eight mouthfuls of forest grains at noon *for a whole month*, tak'ing care to subdue his mind.

220. 'If a *Bráhmen* eat only four mouthfuls at sunrise, and four at 'sunset, *for a month*, keeping his organs controlled, he performs the 'lunar penance of children.

221. 'He, who, for a whole month, eats no more than thrice eighty 'mouthfuls of wild grains, *as he happens* by any means *to meet with* '*them*, keeping his organs in subjection, shall attain the same abode 'with the regent of the moon:

222. 'The eleven *Rudras*, the twelve *A'dityas*, the eight *Vasus*, the '*Maruts*, or genii of the winds, and the seven great *Rishis*, have per'formed this lunar penance as a security from all evil.

223. 'The oblation *of clarified butter* to fire must every day be made 'by *the penitent* himself, accompanied with the mighty words *earth*, '*sky*, *heaven*; he must perfectly abstain from injury to sentient crea'tures, from falsehood, from wrath, and from all crooked ways.

224. 'Or, thrice each day and thrice each night for a month, the 'penitent may plunge into water clothed in his mantle, and at no 'time conversing with a woman, a *Súdra*, or an outcast.

225. 'Let him be always in motion, sitting and rising alternately, 'or, if unable *to be thus restless*, let him sleep low *on the bare ground*;

'chaste

'chaste as a student of the *Véda*, bearing the sacred zone and staff, 'showing reverence to his preceptor, to the gods, and to priests;

226. 'Perpetually must he repeat the *gáyatrì*, and other pure texts 'to the best of his knowledge: thus in all penances for absolution from 'sin, must he vigilantly employ himself.

227. 'By these expiations are twiceborn men absolved, whose of-'fences are publickly known, *and are mischievous by their example*; but 'for sins not publick, the assembly of priests must award them pe-'nances, with holy texts and oblations to fire.

228. 'By open confession, by repentance, by devotion, and by read-'ing the scripture, a sinner may be released from his guilt; or by 'almsgiving, in case of his inability *to perform the other acts of reli-'gion*.

229. 'In proportion as a man, who has committed a sin, shall truly 'and voluntarily confess it, so far he is disengaged from that offence, 'like a snake from his slough;

230. 'And, in proportion as his heart sincerely loathes his evil deed, 'so far shall his vital spirit be freed from the taint of it.

231. 'If he commit sin, and actually repent, that sin shall be re-'moved from him; but if he merely say, "I will sin thus no more," 'he can only be released by an actual abstinence from guilt.

232. 'Thus revolving in his mind the certainty of retribution in a 'future state, let him be constantly good in thoughts, words, and 'action.

233. 'If

233. ‘ If he desire complete remission of any foul act which ‘ he has committed, either ignorantly or knowingly, let him be- ‘ ware of committing it again: *for the second fault his penance must be* ‘ *doubled*.

234. ‘ If, having performed any expiation, he feel not a perfect satis- ‘ faction of conscience, let him repeat the same devout act, until his ‘ conscience be perfectly satisfied.

235. ‘ All the bliss of deities and of men is declared by sages, who ‘ discern the sense of the *Véda*, to have in devotion its cause, in devo- ‘ tion its continuance, in devotion its fullness.

236. ‘ Devotion is *equal to the performance of all duties*; *it is* divine ‘ knowledge in a *Bráhmen*; it is defence of the people in a *Cshatriya*; ‘ devotion is *the* business *of trade and agriculture* in a *Vaisya*; devotion ‘ is dutiful service in a *Súdra*.

237. ‘ Holy sages, with subdued passions, feeding only on fruit, ‘ roots, and air, by devotion alone are enabled to survey the three ‘ worlds, *terrestrial*, *ethereal*, *and celestial*, peopled with animal crea- ‘ tures, locomotive and fixed.

238. ‘ Perfect health, or unfailing medicines, divine learning, and ‘ the various mansions of deities, are acquired by devotion alone: their ‘ efficient cause is devotion.

239. ‘ Whatever is hard to be traversed, whatever is hard to be ac- ‘ quired, whatever is hard to be visited, whatever is hard to be per- ‘ formed, all this may be accomplished by true devotion; for the dif- ‘ ficulty of devotion is the greatest of all.

240. ‘ Even

240. 'Even ſinners in the higheſt degree, and of courſe the 'other offenders, are abſolved from guilt by auſtere devotion well-'practiſed.

241. '*Souls, that animate* worms, and inſects, ſerpents, moths, beaſts, 'birds, and vegetables, attain heaven by the power of devotion.

242. 'Whatever ſin has been conceived in the hearts of men, ut-'tered in their ſpeech, or committed in their bodily acts, they ſpeedily 'burn it all away by devotion, if they preſerve devotion as their beſt 'wealth.

243. 'Of a prieſt, whom devotion has purified, the divine ſpirits 'accept the ſacrifices, and grant the deſires with ample increaſe.

244. 'Even BRAHMA', lord of creatures, by devotion enacted this 'code of laws; and the ſages by devotion acquired a knowledge of the '*Védas*.

245. 'Thus the gods themſelves, obſerving in this univerſe the 'incomparable power of devotion, have proclaimed aloud the tranſ-'cendent excellence of pious auſterity.

246. 'By reading each day as much as poſſible of the *Véda*, by per-'forming the *five* great ſacraments, and by forgiving all injuries, even 'ſins of the higheſt degree ſhall be ſoon effaced:

247. 'As fire conſumes in an inſtant with his bright flame the 'wood, that has been placed on it, thus, with the flame of knowledge, 'a *Bráhmen*, who underſtands the *Véda*, conſumes all ſin.

248. 'Thus

248. ‘ Thus has been declared, according to law, the mode of atoning for open ſins: now learn the mode of obtaining abſolution for ‘ ſecret offences.

249. ‘ SIXTEEN ſuppreſſions of the breath, *while the holieſt of texts* ‘ *is repeated* with the three mighty words, and the triliteral ſyllable, ‘ continued each day for a month, abſolve even the ſlayer of a *Bráh*- ‘ *men* from his hidden faults.

250. ‘ Even a drinker of ſpirituous liquors is abſolved by repeating ‘ each day the text *apa* uſed by the ſage CAUTSA, or that beginning ‘ with *preti* uſed by VASISHT'HA, or that called *máhitra*, or that, of ‘ which the firſt word is *ſuddhavatyah*.

251. ‘ By repeating *each day for a month* the text *áſyavámíya*, or ‘ the hymn *Sivaſancalpa*, the ſtealer of gold from a prieſt becomes in- ‘ ſtantly pure.

252. ‘ He, who has violated the bed of his preceptor, is cleared *from* ‘ *ſecret faults* by repeating *ſixteen times a day* the text *haviſhyantíya*, ‘ or that beginning with *na tamanhah*, or by revolving in his mind the ‘ *ſixteen* holy verſes, called *Pauruſha*.

253. ‘ The man, who deſires to expiate *his hidden* ſins great and ‘ ſmall, muſt repeat *once a day* for a year the text *ava*, or the text ‘ *yatcinchida*.

254. ‘ He, who has accepted an illegal preſent, or eaten prohi- ‘ bited food, may be cleanſed in three days by repeating the text *tarat*- ‘ *ſamandíya*.

255. ‘ Though

255. 'Though he have committed many ſecret ſins, he ſhall be 'purified by repeating for a month the text *ſómáraudra* or the three 'texts *áryamna*, while he bathes in a ſacred ſtream.

256. 'A grievous offender muſt repeat the ſeven verſes, beginning 'with INDRA, for half a year; and he, who has defiled water with 'any impurity, muſt ſit a whole year ſubſiſting by alms.

257. 'A twiceborn man, who ſhall offer clarified butter for a year, 'with *eight* texts appropriated to *eight* ſeveral oblations, or with the 'text *na mé*, ſhall efface a ſin even of an extremely high degree.

258. 'He, who had committed a crime of the firſt degree, ſhall be 'abſolved, if he attend a herd of kine for a year, mortify his organs, 'and continually repeat the texts beginning with *pávamánì*, living 'ſolely on food given in charity:

259. 'Or, if he thrice repeat a *Sanhitá* of the *Védas*, or *a large por-'tion of them with all the* mantras *and* bráhmanas, dwelling in a foreſt 'with ſubdued organs, and purified by three *parácas*, he ſhall be ſet 'free from all ſins how heinous ſoever.

260. 'Or he ſhall be releaſed from all deadly ſins, if he faſt three 'days, with his members mortified, and twice a day plunge into water, 'thrice repeating the text *aghamarſhana*:

261. 'As the ſacrifice of a horſe, the king of ſacrifices, removes all 'ſins, thus the text *aghamarſhana* deſtroys all offences.

262. 'A prieſt, who ſhould retain in his memory the whole '*Rigvéda*, would be abſolved from guilt, even if he had ſlain the 'inhabitants

'inhabitants of the three worlds, and had eaten food from the fouleſt
'hands.

263. 'By thrice repeating the *mantras* and *bráhmanas* of the *Rĭch*,
'or thoſe of the *Yajuſh*, or thoſe of the *Sáman*, with the *upaniſhads*, he
'ſhall perfectly be cleanſed from every poſſible taint:

264. 'As a clod of earth, caſt into a great lake, ſinks in it, thus is
'every ſinful act ſubmerged in the triple *Véda*.

265. 'The diviſions of the *Rĭch*, the ſeveral branches of the *Yajuſh*,
'and the manifold ſtrains of the *Sáman* muſt be conſidered as forming
'the triple *Véda*: he knows the *Véda*, who knows them collectively.

266. 'The primary triliteral ſyllable, in which the three *Védas*
'themſelves are compriſed, muſt be kept ſecret, as another triple *Véda*:
'he knows the *Véda*, who *diſtinctly* knows *the myſtick ſenſe of* that
'word.'

CHAPTER THE TWELFTH.

On Tranſmigration and Final Beatitude.

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1. 'O THOU, who art free from ſin, *ſaid the devout ſages,* 'thou haſt declared the whole ſyſtem of duties ordained for the four 'claſſes of men: explain to us now, from the firſt principles, the ul- 'timate retribution for their deeds.'

2. BHRĬGU, whoſe heart was the pure eſſence of virtue, who pro- ceeded from MENU himſelf, thus addreſſed the great ſages: 'Hear 'the infallible rules for *the fruit of* deeds in this univerſe.

3. 'ACTION, either mental, verbal, or corporeal, bears good or evil 'fruit, *as itſelf is good or evil*; and from the actions of men proceed 'their various tranſmigrations in the higheſt, the mean, and the loweſt 'degree:

4. 'Of that threefold action, connected with bodily functions, diſ- 'poſed in three claſſes, and conſiſting of ten orders, be it known in this 'world, that the heart is the inſtigator.

5. 'Deviſing means to appropriate the wealth of other men, re- 'ſolving on any forbidden deed, and conceiving notions of atheiſm or 'materialiſm, are the three bad acts of the mind:

6. 'Scurrilous

6. 'Scurrilous language, falſehood, indiſcriminate backbiting, and 'uſeleſs tattle, are the four bad acts of the tongue:

7. 'Taking effects not given, hurting ſentient creatures without the 'ſanction of law, and criminal intercourſe with the wife of another, 'are the three bad acts of the body; *and all the ten have their oppoſites, 'which are good in an equal degree.*

8. 'A rational creature has a reward or a puniſhment for mental 'acts, in his mind; for verbal acts, in his organs of ſpeech; for cor-'poreal acts, in his bodily frame.

9. 'For ſinful acts moſtly corporeal, a man ſhall aſſume *after death* 'a vegetable or mineral form; for ſuch acts moſtly verbal, the form of 'a bird or a beaſt; for acts moſtly mental, the loweſt of human con-'ditions:

10. 'He, whoſe firm underſtanding obtains a command over his 'words, a command over his thoughts, and a command over his 'whole body, may juſtly be called a *tridandì*, or *triple commander*; *not a 'mere anchoret, who bears three viſible ſtaves.*

11. 'The man, who exerts this triple ſelfcommand with reſpect to 'all animated creatures, wholly ſubduing both luſt and wrath, ſhall by 'thoſe means attain beatitude.

12. 'THAT ſubſtance, which gives a power of motion to the body, 'the wiſe call *cſhétrajnya*, or *jívátman*, the vital ſpirit; and that body, 'which thence derives active functions, they name *bhútátman*, or *com-'poſed of elements:*

13. 'Another

13. ‘ Another internal ſpirit, called *mahat*, or *the great ſoul*, attends ‘ the birth of all creatures imbodied, and thence in all mortal forms ‘ is conveyed a perception either pleaſing or painful.

14. ‘ Thoſe two, the vital ſpirit and reaſonable ſoul, are cloſely ‘ united with *five* elements, but connected with the ſupreme ſpirit, or ‘ divine eſſence, which pervades all beings high and low :

15. ‘ From the ſubſtance of that *ſupreme ſpirit* are diffuſed, *like* ‘ *ſparks from fire*, innumerable vital ſpirits, which perpetually give mo‘ tion to creatures exalted and baſe.

16. ‘ By the vital ſouls of thoſe men, who have committed ſins *in* ‘ *the body reduced to aſhes*, another body, compoſed of *nerves with* five ‘ ſenſations, in order to be ſuſceptible of torment, ſhall certainly be ‘ aſſumed after death ;

17. ‘ And, being intimately united with thoſe minute nervous par‘ ticles, according to their diſtribution, they ſhall feel, in that new ‘ body, the pangs inflicted in each caſe by the ſentence of YAMA.

18. ‘ When the vital ſoul has gathered the fruit of ſins, which ariſe ‘ from a love of ſenſual pleaſure, but muſt produce miſery, and, when ‘ its taint has thus been removed, it approaches again thoſe two moſt ‘ effulgent eſſences *the intellectual ſoul and the divine ſpirit :*

19. ‘ They two, cloſely conjoined, examine without remiſſion the ‘ virtues and vices of that ſenſitive ſoul, according to its union with ‘ which it acquires pleaſure or pain in the preſent and future worlds.

20. ‘ If

20. ' If the vital ſpirit had practiſed virtue for the moſt part and
' vice in a ſmall degree, it enjoys delight in celeſtial abodes, clothed
' with a body formed of pure elementary particles;

21. ' But, if it had generally been addicted to vice, and ſeldom
' attended to virtue, then ſhall it be deſerted by thoſe pure elements,
' and, *having a coarſer body of ſenſible nerves*, it feels the pains to which
' YAMA ſhall doom it:

22. ' Having endured thoſe torments according to the ſentence of
' YAMA, and its taint being almoſt removed, it again reaches thoſe five
' pure elements in the order of their natural diſtribution.

23. ' Let each man, conſidering with his intellectual powers theſe
' migrations of the ſoul according to its virtue or vice, *into a region of*
' *bliſs or pain*, continually fix his heart on virtue.

24. ' BE it known, that the three qualities of the rational ſoul are a
' tendency to goodneſs, to paſſion, and to darkneſs; and, endued with
' one or more of them, it remains inceſſantly attached to all theſe
' created ſubſtances:

25. ' When any one of the *three* qualities predominates in a mortal
' frame, it renders the imbodied ſpirit eminently diſtinguiſhed for that
' quality.

26. ' Goodneſs is declared to be true knowledge; darkneſs, groſs
' ignorance; paſſion, an emotion of deſire or averſion: ſuch is the
' compendious deſcription of thoſe qualities, which attend all ſouls.

27. ' When

27. 'When a man perceives in the reaſonable ſoul a diſpoſition
'tending to virtuous love, unclouded with any malignant paſſion,
'clear as the pureſt light, let him recogniſe it as the quality of
'goodneſs:

28. 'A temper of mind, which gives uneaſineſs and produces diſ-
'affection, let him conſider as the adverſe quality of paſſion, ever
'agitating imbodied ſpirits:

29. 'That indiſtinct, inconceivable, unaccountable diſpoſition of a
'mind naturally ſenſual, and clouded with infatuation, let him know
'to be the quality of darkneſs.

30. 'Now will I declare at large the various acts, in the higheſt,
'middle, and loweſt degrees, which proceed from thoſe three diſpoſi-
'tions of mind.

31. 'Study of ſcripture, auſtere devotion, ſacred knowledge, cor-
'poreal purity, command over the organs, performance of duties, and
'meditation on the divine ſpirit, accompany the good quality of the
'ſoul:

32. 'Intereſted motives for acts *of religion or morality*, perturbation
'of mind on ſlight occaſions, commiſſion of acts forbidden by law, and
'habitual indulgence in ſelfiſh gratifications, are attendant on the qua-
'lity of paſſion:

33. 'Covetouſneſs, indolence, avarice, detraction, atheiſm, omiſſion
'of preſcribed acts, a habit of ſoliciting favours, and inattention to
'neceſſary buſineſs, belong to the dark quality.

34. 'Of

34. ‘ Of thoſe three qualities, as they appear in the three times,
‘ *paſt*, *preſent*, *and future*, the following in order *from the loweſt* may
‘ be conſidered as a ſhort *but certain* criterion.

35. ‘ Let the wiſe conſider, as belonging to the quality of darkneſs,
‘ every act, which a man is aſhamed of having done, of doing, or of
‘ going to do:

36. ‘ Let them conſider, as proceeding from the quality of paſſion,
‘ every act, by which a man ſeeks exaltation and celebrity in this
‘ world, though he may not be much afflicted, if he fail of attaining
‘ his object:

37. ‘ To the quality of goodneſs belongs every act, by which he hopes
‘ to acquire divine knowledge, which he is never aſhamed of doing
‘ and which brings placid joy to his conſcience.

38. ‘ Of the dark quality, as deſcribed, the principal object is plea-
‘ ſure; of the paſſionate, worldly proſperity; but of the good quality,
‘ the chief object is virtue: the laſt mentioned *objects* are ſuperiour in
‘ dignity.

39. ‘ SUCH tranſmigrations, as the ſoul procures in this uni-
‘ verſe by each of thoſe qualities, I now will declare in order ſuc-
‘ cinctly.

40. ‘ Souls, endued with goodneſs, attain always the ſtate of deities;
‘ thoſe filled with ambitious paſſions, the condition of men; and thoſe
‘ immerſed in darkneſs, the nature of beaſts: this is the triple order
‘ of tranſmigration.

41. ‘ Each

41. ' Each of thoſe three tranſmigrations, cauſed by the ſeveral qua-
' lities, muſt alſo be conſidered as threefold, the loweſt, the mean, and
' the higheſt, according to as many diſtinctions of acts and of know-
' ledge.

42. ' Vegetable and mineral ſubſtances, worms, inſects, and reptiles,
' ſome very minute, ſome rather larger, fiſh, ſnakes, tortoiſes, cattle,
' ſhakals, are the loweſt forms, to which the dark quality leads :

43. ' Elephants, horſes, men of the ſervile claſs, and contemptible
' *Mléch'has*, or *barbarians*, lions, tigers, and boars, are the mean ſtates
' procured by the quality of darkneſs :

44. ' Dancers and ſingers, birds, and deceitful men, giants and blood-
' thirſty ſavages, are the higheſt conditions, to which the dark quality
' can aſcend.

45. ' *J'hallas*, or cudgelplayers, *Mallas*, or boxers and wreſtlers, *Natas*,
' or actors, thoſe who teach the uſe of weapons, and thoſe who are
' addicted to gaming or drinking, are the loweſt forms occaſioned by
' the paſſionate quality :

46. ' Kings, men of the fighting claſs, domeſtick prieſts of kings,
' and men ſkilled in the war of controverſy, are the middle ſtates
' cauſed by the quality of paſſion :

47. ' *Gandharvas*, or aerial muſicians, *Guhyacas* and *Yacſhas*, or ſer-
' vants and companions of CUVE'RA, genii attending ſuperiour gods, as
' the *Vidyádharas* and others, together with various companies of
' *Apſaraſes* or nymphs, are the higheſt of thoſe forms, which the
' quality of paſſion attains.

 48. ' Hermits,

48. 'Hermits, religious mendicants, other *Bráhmens*, ſuch orders of 'demigods as are wafted in airy cars, genii of the ſigns and lunar 'manſions, and *Daityas*, or the offspring of DITI, are the loweſt of 'ſtates procured by the quality of goodneſs:

49. 'Sacrificers, holy ſages, deities of the lower heaven, genii of 'the *Védas*, regents of ſtars *not in the paths of the ſun and moon*, di-'vinities of years, *Pitrĭs* or progenitors of mankind, and the demigods 'named *Sádhyas*, are the middle forms, to which the good quality 'conveys *all ſpirits moderately endued with it:*

50. 'BRAHMÁ with four faces, creators of worlds *under him, as* 'MARÍCHI *and others*, the genius of virtue, the divinities preſiding 'over *(two principles of nature in the philoſophy of* CAPILA) *mahat*, or 'the *mighty*, and *avyacta*, or *unperceived*, are the higheſt conditions, to 'which, by the good quality, ſouls are exalted.

51. 'This triple ſyſtem of tranſmigrations, in which each claſs has 'three orders, according to actions of three kinds, and which compriſes 'all animated beings, has been revealed in its full extent:

52. 'Thus, by indulging the ſenſual appetites, and by neglecting the 'performance of duties, the baſeſt of men, ignorant of ſacred expia-'tions, aſſume the baſeſt forms.

53. 'WHAT particular bodies the vital ſpirit enters in this world, 'and in conſequence of what ſins here committed, now hear at large 'and in order.

54. 'Sinners in the firſt degree, having paſſed through terrible re-'gions of torture for a great number of years, are condemned to the

'following

'following births at the close of that period *to efface all remains of* '*their sin*.

55. 'The slayer of a *Bráhmen* must enter *according to the cir-* '*cumstances of his crime* the body of a dog, a boar, an ass, a 'camel, a bull, a goat, a sheep, a stag, a bird, a *Chandála*, or a '*Puccasa*.

56. 'A priest, who has drunk spirituous liquor, shall migrate into 'the form of a smaller or larger worm or insect, of a moth, of a fly 'feeding on ordure, or of some ravenous animal.

57. 'He, who steals the gold of a priest, shall pass a thousand times 'into the bodies of spiders, of snakes and cameleons, of *crocodiles and* '*other* aquatick monsters, or of mischievous bloodsucking demons.

58. 'He, who violates the bed of his *natural or spiritual* father, 'migrates a hundred times into the forms of grasses, of shrubs with 'crowded stems, or of creeping and twining plants, of *vultures and* '*other* carnivorous animals, of *lions and other* beasts with sharp teeth, 'or of *tigers and other* cruel brutes.

59. 'They, who hurt any sentient beings, are born *cats and other* 'eaters of raw flesh; they, who taste what ought not to be tasted, 'maggots or small flies; they, who steal *ordinary things*, devourers of 'each other: they, who embrace very low women, become restless 'ghosts.

60. 'He, who has held intercourse with degraded men, or been 'criminally connected with the wife of another, or stolen *common* '*things*

‘ *things* from a prieſt, ſhall be changed into a ſpirit, called *Brah-* ‘ *marácſhaſa.*

61. ‘ The wretch, who through covetouſneſs has ſtolen *rubies or* ‘ *other* gems, pearls, or coral, or precious things of which there are ‘ many ſorts, ſhall be born *in the tribe of goldſmiths, or* among *birds* ‘ *called* hémacáras, *or goldmakers.*

62. ‘ If a man ſteal grain in the huſk, he ſhall be born a rat; ‘ if a yellow mixed metal, a gander; if water, a *plava*, or diver; if ‘ honey, a great ſtinging gnat; if milk, a crow; if expreſſed juice, ‘ a dog; if clarified butter, an ichneumon weaſel;

63. ‘ If he ſteal fleſhmeat, a vulture; if any ſort of fat, the water- ‘ bird *madgu*; if oil, a blatta, or oildrinking beetle; if ſalt, a cicada or ‘ cricket; if curds, the bird *valáca*;

64. ‘ If ſilken clothes, the bird *tittiri*; if woven flax, a frog; if ‘ cotton cloth, the waterbird *crauncha*; if a cow, the lizard *gódhá*; ‘ if molaſſes, the bird *vágguda*;

65. ‘ If exquiſite perfumes, a muſkrat; if potherbs, a peacock; if ‘ dreſſed grain in any of its various forms, a porcupine; if raw grain, ‘ a hedgehog;

66. ‘ If he ſteal fire, the bird *vaca*; if a houſehold utenſil, an ich- ‘ neumon-fly; if dyed cloth, the bird *chacóra*;

67. ‘ If a deer or an elephant, he ſhall be born a wolf; if a horſe, ‘ a tiger; if roots or fruit, an ape; if a woman, a bear; if water ‘ from

‘ from a jar, the bird *chátaca*; if carriages, a camel; if ſmall cattle,
‘ a goat.

68. ‘ That man, who deſignedly takes away the property of another, ‘ or eats any holy cakes not firſt preſented *to the deity* at a ſolemn rite, ‘ ſhall inevitably ſink to the condition of a brute.

69. ‘ Women, who have committed ſimilar thefts, incur a ſimilar ‘ taint, and ſhall be paired with thoſe male beaſts *in the form* of their ‘ females.

70. ‘ If any of the four claſſes omit, without urgent neceſſity, the ‘ performance of their ſeveral duties, they ſhall migrate into ſinful ‘ bodies, and become ſlaves to their foes.

71. ‘ Should a *Bráhmen* omit his peculiar duty, he ſhall be changed ‘ into a demon called *Ulcámuc'ha* or *with a mouth like a firebrand*, who ‘ devours what has been vomited; a *Cſhatriya*, into a demon called ‘ *Catapútana*, who feeds on ordure and carrion;

72. ‘ A *Vaiſya*, into an evil being called *Maitrácſhajyótica*, who ‘ eats purulent carcaſſes; and a *Súdra*, who neglects his occupations, ‘ becomes a foul imbodied ſpirit called *Chailáſaca*, who feeds on ‘ lice.

73. ‘ As far as vital ſouls, addicted to ſenſuality, indulge themſelves ‘ in forbidden pleaſures, even to the ſame degree ſhall the acuteneſs ‘ of their ſenſes be raiſed *in their future bodies, that they may endure* ‘ *analogous pains*;

74. ‘ And,

74. ‘ And, in conſequence of their folly, they ſhall be doomed as ‘ often as they repeat their criminal acts, to pains more and more in- ‘ tenſe in deſpicable forms on this earth.

75. ‘ They ſhall firſt have a ſenſation of agony in *Támiſra* or *utter* ‘ *darkneſs*, and in other ſeats of horrour; in *Aſipatravana*, or *the* ‘ *ſwordleaved foreſt*, and in different places of binding faſt and of ‘ rending:

76. ‘ Multifarious tortures await them: they ſhall be mangled by ‘ ravens and owls, ſhall ſwallow cakes boiling hot; ſhall walk over ‘ inflamed ſands; and ſhall feel the pangs of being baked like the ‘ veſſels of a potter:

77. ‘ They ſhall aſſume the forms of beaſts continually miſerable, ‘ and ſuffer alternate afflictions from extremities of cold and of heat, ‘ ſurrounded with terrours of various kinds:

78. ‘ More then once ſhall they lie in different wombs; and, after ‘ agonizing births, be condemned to ſevere captivity, and to ſervile ‘ attendance on creatures like themſelves:

79. ‘ Then ſhall follow ſeparations from kindred and friends, ‘ forced reſidence with the wicked, painful gains and ruinous loſſes ‘ of wealth; friendſhips hardly acquired and at length changed into ‘ enmities,

80. ‘ Old age without reſource, diſeaſes attended with anguiſh, ‘ pangs of innumerable ſorts, and, laſtly, unconquerable death.

81. ‘ With

81. ‘ With whatever diſpoſition of mind a man ſhall perform in this ‘ life any act *religious or moral*, in a future body endued with the ‘ ſame quality, ſhall he receive his retribution.

82. ‘ Thus has been revealed to you the ſyſtem of puniſhments for ‘ evil deeds: next learn thoſe acts of a *Bráhmen*, which lead to eternal ‘ bliſs.

83. ‘ Studying and comprehending the *Véda*, practiſing pious au‘ſterities, acquiring divine knowledge *of law and philoſophy*, command ‘ over the organs of ſenſe and action, avoiding all injury to ſentient ‘ creatures, and ſhowing reverence to a *natural and ſpiritual* father, ‘ are the chief branches of duty which enſure final happineſs.’

84. ‘ Among all thoſe good acts performed in this world, *ſaid the* ‘ *ſages*, is no ſingle act held more powerful than the reſt in leading ‘ men to beatitude?’

85. ‘ Of all thoſe duties, *anſwered* Bhrigu, the principal is to ac‘quire from the *Upaniſhads* a true knowledge of one ſupreme GOD; ‘ that is the moſt exalted of all ſciences, becauſe it enſures immor‘tality:

86. ‘ In this life, indeed, as well as the next, the ſtudy of the *Véda*, ‘ to acquire a knowledge of GOD, is held the moſt efficacious of thoſe ‘ ſix duties in procuring felicity to man;

87. ‘ For in the knowledge and adoration of one GOD, which the ‘ *Véda* teaches, all the rules of good conduct, *beforementioned* in order, ‘ are fully compriſed.

88. ‘ The

88. 'THE ceremonial duty, preſcribed by the *Véda*, is of two 'kinds; *one* connected with this world, and cauſing proſperity 'on earth; *the other* abſtracted from it, and procuring bliſs in hea- 'ven.

89. 'A religious act proceeding from ſelfiſh views in this world, '*as a ſacrifice for rain*, or in the next, *as a pious oblation in hope of a* '*future reward*, is declared to be concrete and intereſted; but an act 'performed with a knowledge of GOD, and without ſelf love, is 'called abſtract and diſintereſted.

90. 'He, who frequently performs intereſted rites, attains an equal 'ſtation with the regents of the lower heaven; but he, who frequently 'performs diſintereſted acts of religion, becomes for ever exempt from '*a body compoſed of* the five elements:

91. 'Equally perceiving the ſupreme ſoul in all beings and all be- 'ings in the ſupreme ſoul, he ſacrifices his own ſpirit by fixing it on 'the ſpirit of GOD, and approaches the nature of that ſole divinity, 'who ſhines by his own effulgence.

92. 'Thus muſt the chief of the twiceborn, though he neglect the 'ceremonial rites mentioned in the *Sáſtras*, be diligent alike in attain- 'ing a knowledge of GOD and in repeating the *Véda*:

93. 'Such is the advantageous privilege of thoſe, who have a double 'birth *from their natural mothers and from the* gáyatrì *their ſpiritual* '*mother*, eſpecially of a *Bráhmen*; ſince the twiceborn man, by per- 'forming this duty but not otherwiſe, may ſoon acquire endleſs fe- 'licity.

94. 'To

94. ‘ To patriarchs, to deities, and to mankind, the ſcripture is an ‘ eye giving conſtant light; nor could the *Véda Sáſtra* have been ‘ made by human faculties; nor can it be meaſured by human rea- ‘ ſon *unaſſiſted by revealed gloſſes and comments:* this is a ſure propoſi- ‘ tion.

95. ‘ Such codes of law as are not grounded on the *Véda*, and the ‘ various heterodox theories of men, produce no good fruit after death; ‘ for they all are declared to have their baſis on darkneſs.

96. ‘ All ſyſtems, which are repugnant to the *Véda*, muſt have been ‘ compoſed by mortals, and ſhall ſoon periſh: their modern date ‘ proves them vain and falſe.

97. ‘ The three worlds, the four claſſes of men, and their four ‘ diſtinct orders, with all that has been, all that is, and all that will ‘ be, are made known by the *Véda:*

98. ‘ The nature of ſound, of tangible and viſible ſhape, of taſte, ‘ and of odour, the fifth object of ſenſe, is clearly explained in the ‘ *Véda* alone, together with the three qualities of mind, the births at- ‘ tended with them, and the acts which they occaſion.

99. ‘ All creatures are ſuſtained by the primeval *Véda Sáſtra*, which ‘ the wiſe therefore hold ſupreme, becauſe it is the ſupreme ſource of ‘ proſperity to this creature, man.

100. ‘ Command of armies, royal authority, power of inflicting ‘ puniſhment, and ſovereign dominion over all nations, he only well ‘ deſerves, who perfectly underſtands the *Véda Sáſtra*.

101. ‘ As fire with augmented force burns up even humid trees, ‘ thus he, who well knows the *Véda*, burns out the taint of ſin, which ‘ has infected his ſoul.

102. ‘ He, who completely knows the ſenſe of the *Véda Sáſtra*, while ‘ he remains in any one of the four orders, approaches the divine na-‘ ture, even though he ſojourn in this low world.

103. ‘ They, who have read many books, are more exalted than ‘ ſuch, as have ſeldom ſtudied; they, who retain what they have read, ‘ than forgetful readers; they, who fully underſtand, than ſuch as only ‘ remember; and they, who perform their known duty, than ſuch ‘ men, as barely know it.

104. ‘ Devotion and ſacred knowledge are the beſt means by which ‘ a *Bráhmen* can arrive at beatitude: by devotion he may deſtroy guilt; ‘ by ſacred knowledge he may acquire immortal glory.

105. ‘ Three modes of proof, ocular demonſtration, logical inference, ‘ and the authority of thoſe various books, which are deduced from ‘ the *Véda*, muſt be well underſtood by that man, who ſeeks a diſtinct ‘ knowledge of all his duties:

106. ‘ He alone comprehends the ſyſtem of duties religious and civil, ‘ who can reaſon, by rules of logic agreeable to the *Véda*, on the ge-‘ neral heads of that ſyſtem as revealed by the holy ſages.

107. ‘ Theſe rules of conduct, which lead to ſupreme bliſs, have been ‘ exactly and comprehenſively declared: the more ſecret learning of ‘ this *Mánava Sáſtra* ſhall now be diſcloſed.

108. ‘ If

108. 'If it be asked, how the law shall be ascertained, when par-
'ticular cases are not comprised *under any of the general rules, the*
'*answer is this:* "That, which well instructed *Bráhmens* propound,
"shall be held incontestible law."

109. 'Well instructed *Bráhmens* are they, who can adduce ocular
'proof from the scripture itself, having studied, as the law ordains,
'the *Védas* and their extended branches, or *Védángas, Mímánsà, Nyáya,*
'*Dhermasástra, Puránas:*

110. 'A point of law, *before not expressly revealed*, which shall be
'decided by an assembly of ten such virtuous *Bráhmens* under one chief,
'or, *if ten be not procurable*, of three such under one president, let no
'man controvert.

111. 'The assembly of ten under a chief *either the king himself or*
'*a judge appointed by him*, must consist of three, each of them pecu-
'liarly conversant with one of the three *Védas*, of a fourth skilled
'in the *Nyáya*, and a fifth in the *Mímánsà* philosophy; of a sixth, who
'has particularly studied the *Niructa*; a seventh, who has applied
'himself most assiduously to the *Dhermasástra*; and of three *universal*
'*scholars*, who are in the three first orders.

112. 'One, who has chiefly studied the *Rĭgvéda*, a second, who
'principally knows the *Yajush*, and a third best acquainted with the
'*Sáman*, are the assembly of three under a head, who may remove all
'doubts both in law and casuistry.

113. 'Even the decision of one priest, *if more cannot be assembled*,
'who perfectly knows the principles of the *Védas*, must be considered
'as

‘ as law of the higheſt authority; not the opinion of myriads, who
‘ have no ſacred knowledge.

114. ‘ Many thouſands of *Bráhmens* cannot form a legal aſſembly ‘ for the deciſion of conteſts, if they have not performed the duties of a ‘ regular ſtudentſhip, are unacquainted with ſcriptural texts, and ſub- ‘ ſiſt only by *the name of* their ſacerdotal claſs.

115. ‘ The ſin of that man, to whom dunces, pervaded by the quality ‘ of darkneſs, propound the law, of which they are themſelves ignorant, ‘ ſhall paſs, increaſed a hundredfold, to the wretches who propound it.

116. ‘ This comprehenſive ſyſtem of duties, the chief cauſe of ulti- ‘ mate felicity, has been declared to you; and the *Bráhmen*, who never ‘ departs from it, ſhall attain a ſuperiour ſtate above.

117. ‘ THUS did the allwiſe MENU, who poſſeſſes extenſive do- ‘ minion, and blazes with heavenly ſplendour, diſcloſe to me, from ‘ his benevolence to mankind, this tranſcendent ſyſtem of law, which ‘ muſt be kept devoutly concealed *from perſons unfit to receive it.*

118. ‘ LET every *Bráhmen* with fixed attention conſider all nature, ‘ both viſible and inviſible, as exiſting in the divine ſpirit; for, when ‘ he contemplates the boundleſs univerſe exiſting in the divine ſpirit, ‘ he cannot give his heart to iniquity:

119. ‘ The divine ſpirit alone is the whole aſſemblage of gods; all ‘ worlds are ſeated in the divine ſpirit, and the divine ſpirit no doubt ‘ produces, *by a chain of cauſes and effects conſiſtent with free will,* the ‘ connected ſeries of acts performed by imbodied ſouls.

120. ‘ He

120. ‘ He may contemplate the ſubtil ether in the cavities of his ‘ body; the air in his muſcular motion and ſenſitive nerves; the ſu‘ preme *ſolar and igneous* light, in his digeſtive heat and his viſual or‘ gans; in his corporeal fluids, water; in the terrene parts of his fa‘ brick, earth;

121. ‘ In his heart, the moon; in his auditory nerves, the guardians ‘ of eight regions; in his progreſſive motion, VISHNU; in his muſcular ‘ force, HARA; in his organs of ſpeech, AGNI; in excretion, MITRA; ‘ in procreation, BRAHMA′:

122. ‘ But he muſt conſider the ſupreme omnipreſent intelligence as ‘ the ſovereign lord of them all, *by whoſe energy alone they exiſt*; a ‘ ſpirit, *by no means the object of any ſenſe*, which can only be conceived ‘ by a mind *wholly abſtracted from matter, and as it were* ſlumbering; ‘ but which *for the purpoſe of aſſiſting his meditation*, he may imagine ‘ more ſubtil than the fineſt conceivable eſſence, and more bright than ‘ the pureſt gold.

123. ‘ Him ſome adore as tranſcendently preſent in elementary fire; ‘ others, in MENU, lord of creatures, *or an immediate agent in the* ‘ *creation*; ſome, as more diſtinctly preſent in INDRA, *regent of the* ‘ *clouds and the atmoſphere*; others, in pure air; others, as the moſt ‘ High Eternal Spirit.

124. ‘ It is He, who, pervading all beings in five elemental forms, ‘ cauſes them by the gradations of birth, growth, and diſſolution, to re‘ volve in this world, *until they deſerve beatitude*, like the wheels of a car.

125. ‘ Thus the man, who perceives in his own ſoul the ſupreme ‘ ſoul preſent in all creatures, acquires equanimity toward them all,

‘ and

‘ and ſhall be abſorbed at laſt in the higheſt eſſence, even that of the
‘ Almighty himſelf.’

126. HERE ended the ſacred inſtructor; and every twiceborn man, who, attentively reading this *Mánava Sáſtra* promulgated by BHRĬGU, ſhall become habitually virtuous, will attain the beatitude which he ſeeks.

GENERAL

GENERAL NOTE.

THE learned *Hindus* are unanimoufly of opinion, that many laws enacted by MENU, their oldeft reputed legiflator, were confined to the three firft ages of the world, and have no force in the prefent age, in which a few of them are certainly obfolete; and they ground their opinion on the following texts, which are collected in a work entitled *Mandana ratna pradípa:*

I. CRATU: In the *Cali* age a fon muft not be begotten *on a widow* by the brother *of the deceafed hufband*; nor muft a damfel, *once* given away *in marriage*, be given a *fecond time*; nor muft a bull be offered in a facrifice; nor muft a waterpot be carried *by a ftudent in theology.*

II. VRIHASPATI: 1. Appointments *of kinfmen to beget children on widows, or married women, when the hufbands are deceafed or impotent*, are mentioned by the fage MENU, but forbidden by himfelf with a view to the order of the four ages: no fuch act can be legally done in this age by any others *than the hufband.*

2. In the firft and fecond ages men were endued with true piety and found knowledge; fo *they were* in the third age; but in the fourth, a diminution of their *moral and intellectual* powers was ordained *by their Creator:*

3. Thus

3. Thus were ſons of many different ſorts made by ancient ſages, but ſuch cannot now be adopted by men deſtitute of thoſe eminent powers.

III. PARA'SARA: 1. A man, *who has held intercourſe with a deadly ſinner*, muſt abandon his country in the firſt age; he muſt leave his town, in the ſecond; his family, in the third age; but in the fourth he needs only deſert the offender.

2. In the firſt age, he is degraded by mere converſation with a degraded man; in the ſecond, by touching him; in the third, by receiving food from him; but in the fourth, the ſinner alone bears his guilt.

IV. NA'RADA: The procreation of a ſon by a brother *of the deceaſed*, the ſlaughter of cattle in the entertainment of a gueſt, the repaſt on fleſhmeat at funeral obſequies, and the order of a hermit *are forbidden or obſolete in the fourth age*.

V. *A'ditya purâna:* 1. What was a duty in the firſt age muſt not *in all caſes* be done in the fourth; ſince, in the *Cali yuga*, both men and women are addicted to ſin:

2. Such are a ſtudentſhip continued for a very long time, and the neceſſity of carrying a waterpot, marriage with a paternal kinſwoman, or with a near maternal relation, and the ſacrifice of a bull,

3. Or of a man, or of a horſe: and all ſpirituous liquor muſt in the *Cali* age be avoided by twiceborn men; ſo muſt a ſecond gift of a married young woman, *whoſe huſband has died before conſummation*, and the larger portion of an eldeſt brother, and procreation on a brother's widow or wife.

VI. *Smrĭti:*

VI. *Smrĭti:* 1. The appointment of a man to beget a ſon on the widow of his brother; the gift of a young married woman to another bridegroom, *if her huſband ſhould die* while ſhe remains a virgin;

2. The marriage of twiceborn men with damſels not of the ſame claſs; the ſlaughter, in a religious war, of *Bráhmens*, who are aſſailants with intent to kill;

3. Any intercourſe with a twiceborn man, who has paſſed the ſea in a ſhip, even though he have performed an expiation; performances of ſacrifices for all ſorts of men; and *the neceſſity of* carrying a waterpot;

4. Walking on a pilgrimage till the pilgrim die; and the ſlaughter of a bull at a ſacrifice; the acceptance of ſpirituous liquor, even at the ceremony called *Sautrámani*;

5. Receiving what has been licked off, at an oblation to fire, from the pot of clarified butter; entrance into the third order, or that of a hermit, though ordained *for the firſt ages*;

6. The diminution of crimes in proportion to the religious acts and ſacred knowledge *of the offenders*; the rule of expiation for a *Bráhmen* extending to death;

7. The ſin of holding any intercourſe with ſinners; the ſecret expiation of any great crimes except theft; the ſlaughter of cattle in honour of eminent gueſts or of anceſtors;

8. The filiation of any but a ſon legally begotten or given in adoption *by his parents*; the deſertion of a lawful wife for any offence leſs than actual adultery:

9. Theſe *parts of ancient law* were abrogated by wiſe legiſlators, as the caſes aroſe at the beginning of the *Cali* age, with an intent of ſecuring mankind from evil.

On the preceding texts it muſt be remarked, that none of them, except that of VRĬHASPATI, are cited by CULLU'CA, who never ſeems to have conſidered any other laws of MENU as reſtrained to the three firſt ages; that the *Smrĭti*, or ſacred code, is quoted without the name of the legiſlator; and that the prohibition, in any age, of *ſelf-defence*, even againſt *Bráhmens*, is repugnant to a text of SUMANTU, to the precept and example of CRISHNA himſelf, according to the *Mahábhárat*, and even to a ſentence in the *Véda*, by which every man is commanded *to defend his own life from all* violent aggreſſors.

THE

Calcutta, March 1, 1794.

SIR,

THE Inſtitutes of Hindu Law have been very correctly printed, and the whole impreſſion has juſt been ſent to the Governor and Council, who will not fail to tranſmit copies for the King's library, for yourſelf, and for the Directors. If I had obtained his Majeſty's leave to reſign my office, nothing would now keep me here, but the Digeſt of Indian Laws, conſiſting of nine large volumes, two of which remain to be collated and ſtudied with the learned Bráhmen, who aſſiſts me: he is old and infirm; but, ſhould he be able to attend me another year, or two years at the very utmoſt, the whole work will be finiſhed, and I ſhall copy it during my voyage, if the King ſhall graciouſly permit me to leave India.

I, therefore, intreat you, Sir, to lay before his Majeſty, my humble ſupplication for his gracious permiſſion to reſign my judgeſhip in the year 1795, or (if the Digeſt ſhould not then be completed) in 1796; it being my anxious wiſh to paſs the remainder of my life in ſtudious retirement, though devoted, as I ever have been, to the ſervice of my King and my Country, and of that recorded Conſtitution, which is the baſis of our national glory and felicity.

I have the honour to be, Sir,

your very obedient,

humble Servant.

The Right Honourable Henry Dundas, Eſq.

THE

MAHOMEDAN LAW

OF

SUCCESSION

TO

THE PROPERTY OF INTESTATES,

IN

ARABICK,

ENGRAVED ON COPPER PLATES

FROM

AN ANCIENT MANUSCRIPT:

WITH

A VERBAL TRANSLATION, AND EXPLANATORY NOTES.

THE

PREFACE.

NOTHING more ſeems neceſſary, in order to explain the object of the following work, than barely to cite the late ſtatute concerning *the adminiſtration of juſtice in* BENGAL; by the *ſeventeenth* ſection of which it is enacted, " That the Supreme Court of Judicature at *Fort Wil-*" *liam* ſhall have full power to *hear and determine* all manner of actions " and ſuits againſt the inhabitants of *Calcutta*, provided that their " *inheritance and ſucceſſion to lands, rents, and goods*, and all matters of " contract and dealing between party and party, ſhall be determined, " *in the caſe of* Mahomedans, *by the laws and uſages of* MAHOMEDANS, " and, where only *one* of the parties ſhall be a Mahomedan, by the " laws and uſages of *the defendant*:" by the *twenty-firſt* ſection, the *provincial* courts of *Adálet*, or *Juſtice*, are expreſsly recogniſed, and the powers of the governor and council, as the *Sedr Adálet*, in determining civil cauſes on appeals from thoſe courts, are fully eſtabliſhed in conformity to the old *Mogul* conſtitution.

But it may naturally be aſked, how the judges of the Supreme Court, the provincial councils and council general, in *India*, or the great court of appeal in this kingdom, can juſtly exerciſe their ſeveral powers in ſuits between *Mahomedan* parties, without being at all acquainted with the law, by which they are bound to decide. Perpetual references to native lawyers muſt always be inconvenient and precarious; ſince the ſolidity

ſolidity of their anſwers muſt depend on their integrity, as well as their learning; and at beſt, if they be neither influenced nor ignorant, the court will not in truth *hear and determine* the cauſe, but merely pronounce judgement on the report of other men.

For theſe reaſons it appears indubitable, that a knowledge of *Mahomedan* juriſprudence (I ſay nothing here of the *Hindú* learning), and conſequently of the *languages* uſed by *Mahomedan* writers, are eſſential to a complete adminiſtration of juſtice in our *Aſiatick* territories; a knowledge I mean, though not equal to that of the MUFTI at *Conſtantinople*, yet ſufficient for the purpoſe of keeping a check over the native counſellors, of underſtanding and examining their opinion, and of rejecting or adopting it, as it may be oppoſed or ſupported by their books of allowed authority, to which they ſhould conſtantly refer.

A conſiderable number of thoſe books have been brought to *England* by the curious in different ages, and are now repoſited in our Academical libraries: in the *Bodleian*, eſpecially, we have many treatiſes and diſſertations in *Arabick* on *wills*, *inheritances*, *contracts*, and other important heads; particularly in the fine collection made at *Aleppo* by the learned POCOCK, from one of whoſe moſt valuable manuſcripts (n. 33.) this little work has been traced through tranſparent paper, and engraved with ſuch accuracy, that the plates muſt have equal authority in *Aſia* with the original pages, which are near *five hundred years* old.

The author, a native of *Alrahaba*, in *Meſopotamia*, was himſelf an IMAM; and his deciſions are, on that account, conſidered as binding by the ſect of *Ali*, which the *Indian*, as well as the *Perſian*, Mahomedans profeſs; but IBNO'LMOTAKANNA informs us, that he drew his knowledge from the fountain head, and has epitomiſed the ſyſtem of *Zaid*, who was recommended by MAHOMED himſelf as the ſureſt interpreter

preter of his laws, and who had been implicitly followed by SHAFIEI, the firſt writer on *Mahomedan* juriſprudence, in the *eighth* century of our era, and compoſer of the *Oſúl*, or *Principles* of law, with other tracts highly valued by the learned of his religion and country.

Hence it is certain, that the *Bigyato'l báhith* may be cited, as a book of authority, in all the *Muſleman* courts; and the *European* reader muſt not be ſurpriſed, to ſee ſuch a work written in a kind of looſe metre, and even in rhyme: *a lawtract in verſe* conveys, indeed, rather a ludicrous idea, ſince poetry belongs to *imagination*, which law, whoſe province is pure *reaſon*, wholly excludes; but *verſe*, as numberleſs inſtances prove, *is not always poetry*; and a regular meaſure is ſo conſiderable an aid to the *memory*, that, if the *metrical abridgement of* COKE's *Reports* were more accurate, and the couplets a little ſmoother, every ſtudent ſhould be adviſed to get it by heart. I may add, without enlarging upon the *Agathyrſi* and the *Turdetani*, who, as we are told by *Ariſtotle* and *Strabo*, had *laws in verſe of the remoteſt antiquity*, that the ALCORAN itſelf, the great ſource of *Mahomedan* law, is compoſed in ſentences not only modulated with art, but often exactly rhymed; ſo that in *Aſia* this apology would have been needleſs. Verbal tranſlations are generally naked and inſipid, wholly deſtroying all the neatneſs and beauty of the original, yet retaining ſo much of the foreign idiom and manner, as to appear always uncouth, often ridiculous; but elegance, on a ſubject ſo delicate as law, muſt be ſacrificed without mercy to exactneſs; and for this reaſon I have rendered the *Arabian* treatiſe, line for line, and word for word, with a fidelity almoſt religiouſly ſcrupulous.

As it was never my intention to compoſe a perfect work upon the law of inheritances among the *Mahomedans*, it cannot be reaſonably expected, that I ſhould ſubjoin a commentary, or prefix a long diſ-

courſe:

courſe: very few marginal notes were thought neceſſary; but, if the brevity of the original ſhould make parts of it rather obſcure, the *Britiſh* lawyers in *India*, for whoſe uſe chiefly this production was deſigned, will eaſily obtain a clear explanation both of the language and matter from native interpreters.

The *fourth* chapter of the *Alcoran* may throw light, if any be wanted, on the doctrine of the *forúdh* or *portions*; and, as to the *arithmetical* part, it ſeems of little conſequence, as our rules of *three*, and thoſe for the reduction of *fractions*, are common and familiar to all.

The preſent publication will anſwer, I conceive, another purpoſe by no means unimportant; as it will habituate the ſtudent of eaſtern languages to the reading of old *Arabian* manuſcripts; but, leſt the handwriting of the very learned *Saad Al Siváſi*, for that was the name of the tranſcriber, ſhould perplex beginners, I have printed the whole tract, for their ſake, in *Roman* letters, diſtinguiſhing every conſonant and *long* vowel (the *ſhort* ones are too vague and indeterminate) by a character invariably appropriated to it; ſo as *to give every full ſound its own ſpecifick ſymbol*; an advantage, which hardly any alphabet has, but which all ought to have.

Bigyaho

Bigyah́o ’lbáhhithi ân jumali ’lmowárithi

nadh̋mo ’lſhaíkhi álímámi álâálimi

mowáffiki ’ldeíni ábeí âbdillahi

mohhammedi ’bni âleí íbni ’lhhoſaíni

álrahhabiyyi álmârúfi bi ’bni ’l

motakannah́i rahhamaho állaho taâálaí.

Bifmi 'llahi álrahhmani álrahheími wabihi neftaêíno.

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[1] áwwalo má neftaftihho 'lmekálá
bidhicri hhamdi rabbiná taâálá
fálhhamdo lillahi âlaí má ánâmá
hhamdán bihi nejlúá âni 'lâini 'lâmá
thomma álsalwaho bâdo válfalámo
âlaí nebiyyin deínoho álíflamo
mohhamemdin khátimi rufli rabbihi
waálihi min bâdihi wasahhbihi
wanefalo 'llaha liná 'líâánaha
feímá tawakhkhaíná min álíbánaha
ân medh-hebi 'límámi zaídi 'lfaradhei
ídh cána dháca min áhammi 'lgaradhi
îlmán biánna 'lîlmo áúfá má foêí
feíhi waáúlá má leho 'lâbdo doêí
waánna hadhá 'lîlma makhsúson bimá
kad fháâa feíhi înda culli 'lûlemá

waánna zaídán khussa lá mahhálah
bimá hhabáho sáhhibo 'lrifálah
min kaúlihi feí fadhlihi monabbehá
áfradhacom zaídon wanáheíca behá
facána áúlaí be-íttibáî 'ltábiî
lá fiyyamá wakad nahháho 'lfháfiêí
faháca feíhi álkaúla bi'leíjázi
mobarraán min kasmahi 'lálgázi
áfbábo meíráthi 'lwaraí theláthah
cullon yofeído rabbaho 'lwiráthah
wahaí nicáhhon waweláon wanafab
má bâdahonna lilmawáreíthi fabab.

[2] wayamnaô 'lfhakhsa min álmeíráthi
wáhhidahon min îlalin theláthi
rikkon wakatlon waákhtiláfo deíni
faáfham falaífa 'lfhacco cályakeíni
wálwárithúno feí 'lrijáli âfharah
áfmáwahom mârúfahon mufhtaharah
álíbno wa'bno 'líbni mahmá nazalá
wa'lábo wa'ljeddo leho waín âlá
wálákho min áyyi 'ljeháti cáná
kad ánzela 'llaho bihi 'lkoráná
wábno 'lákhi 'lmodleí ílaíhi bi'lábi
fáfmâ mekálán laífa bi'lmucadhdhabi
wa' lâmmo wábno 'lâmmi min ábeíhi
fáfhcor ledheí 'leíjázi wáltanbeíhi
wálzaújo wálmôtiko dhú 'lwelái
fajumlaho 'ldhucúri hawolái

wálwárithá to cullohinna sebô
lam yâthi ónthei gaírahonna 'lsherô
binton wabinto 'bnin waómmon mushfikah
wajaddahon wazaújahon wamôtikah
wálákhto min áyyi 'ljeháti cánat
fahadhihi îddatohá kad bánat
wáâlam biánna 'lírtha naúâáni homá
fardhon watâseíbon âlaí ma kosimá
fálfardho feí nassi 'lcitábi sittah
lá fardho feí 'lírthi siwáhá bittah
nisfon warubôn thomma nisfo 'lrubî
wálthultho wálsudso binassi 'lsherî
wálthulthâni wahomá áltemámo
fáhhfadh facullo hháfidhin ímámo

[3] fálnisfo fardho khamsahin áfrádi
álzaújo wálónthaí min áláúládi
wabinto 'líbni înda fakdi 'lbinti
wálákhto feí medh-hebi culli mufteí
wabâdahá 'lákhto 'llati min álábi
înda ánfirádihinna min moâssibi
wálrubô fardha 'lzaúji ín cána maâh
min waladi 'lzaújahi men kad menaâh
wahú leculli zaújahin áú ácther á
mâ âdami 'láúladi feîmá kadderá
wálthomno lilzaújahi wálzaújáti
mâ álbeneína áú mâ álbenáti

áú mâa áúládi ’lbeneíni fáâlemeí
wábek le-ítkári ’ldurúſi wáſlemeí
waálthúltháni lilbenáti jemâá
má záda ân wáhhidah́i faſemâá
wahúa cadháca lebenáti ’líbni
fáfham mekáleí fahma śáfeí ’ldhiħni
wahúa liákhtaíni femá yezeído
kadh́aí bihi ’láhhráro wálâbeído
hadhá ídhá cunna liómmi waábi
áú liábi fáâmel bihadhá tośibi
wálthultho fardh́o ’lómmi hhaítho lá weleđ
wela mina ’lákhwah́i jemô waâded
cáthnaíni áú thintaíni áú theláthi
hocmo ’ldhucúri feíhi cálínáthi
waḯn yecun zaújoń waómoń waábo
fathultho ’lbákíyo lehá morattabo
wahacadhai mâ zaújah́iń faśáîdá
felá tecun mina ’lûlúmi káîdá

[4] wálthultho liláthnaíni áú thintaíni
min weledi ’lómmi bigaíri maíni
wahacadhaí ín catharúá farádúá
fema lehom feímá ſiwáho zádo
wataſtawaí ’línátho wáldhucúro
feíhi camá kad áúdh́ahho ’lmeſthúro
wálſudſo fardh́o ſebâh́iń mina ’lâded
ábóń waómmoń thomma binto’bni wajedđ

wálókhto binto 'lábi thomma 'ljeddah
waweledo 'lómmi temámo 'lîddah
fálábo yeſtahhikkoho mâa 'lweled
wahacadhaí 'lómmo betenzeíli 'lsemed
wahú lehá áydhán mâa 'láthnaíni
min íkhwahi 'lmaíti fakis hadhaíni
wáljeddo mithlo 'lábi înda fakdihi
feí jeza má yeseíboho wameddihi
íllá ídhá cána honáca íkhwah
licaúnahom feí 'lkurbi wahú áſwah
wahhucmohim wahhucmoho ſeyáteí
mocammela 'lbayána feí 'lhháláti
wabinto 'líbni tákhodh álſudſa ídhá
cánat mâá 'lbinti mithálá yahhtadhaí
wahacadhaí 'lókhto mâa 'lókhti 'llataí
biálábawaíni yá ókhayyo ádlata
faín teſáwaí neſebo 'ljeddáti
wacunna cullahonna wárítháti
fálſudſo baínahonna biálſawiyyah
feí 'lkiſmahi 'lâádilahi 'lſherîyyah
wacullo men ádlat bigaíri wárithi
femá lehá hhadhdhon mina 'lmawárithi.

[5] wataſkotho 'lbôdaí bidháti 'lkurbi
feí 'lmedh-hebi 'láúlaí fakol leí hhaſbeí
wakad tenáhat kiſmaho 'lforúdhi
bigaíri íſhcáli welá gomúdhi

wahhokka án neſhraâ feí 'ltâśeíbi
biculli kaúliń múјiziń mus̀eíbi
facullo men áhhraza culla 'lmáli
mina 'lkarábáti áú álmawáleí
áú cąna má yafdh́olo bâda 'lfardh́i leh
fahú ákhú 'lâśúbah́i 'lmofadh́dh́aleh
cálábi wáljeddi wajeddi 'ljeddi
wálíbni înda kurbihi wálbôdi
wálákhi wábni 'lákhi wáláâmámi
wálſayyidi 'lmôtiki dheí 'línââmi
wahacadhaí benúohom jemeíââń
facun lemá ádhcoroho ſemeíââń
wamá ledheí 'lbôdi mâa 'lkareíbi
feí 'lírthi min hhadh́dh́iń wela neśeíbi
wálákho wálâmmo liómmiń waábi
áúlaí mina 'lmodleí biſhath́ri 'lnaſabi
wa'líbno wálákho mâa 'línáthi
yoâśśibánahinna feí 'lmeíráthi
walaíſa feí 'lniſáï th́urráń âśabah
íllá 'llataí mennat bi îtki 'lrakabah
wálákhawáto ín yecun benáto
fahonna bâdahonna âśabáto
wa'ljeddo mahhjúboń âni 'lmeíráthi
bi'lábi feí áhhwálihi 'ltheláthi
wahacadhaí 'bno 'líbni bi'líbni felá
tabig âni 'lhhacmi 'lſáhheíhhi mâdilá

[6] wataſkotho 'ljeddáto min culli jiheh
bi 'lómmi fáhhfadh-ho wakis má áſhbeheh
wataſkotho 'líkhwaho bi'lbeneíná
wabi'lábi 'ládnaí camá ruweíná
áú bibeneí 'lbeneína hhaítho cánúá
ſiyyáni feíhi 'ljemâ wa'lwahhdáno
wayafdholo'bno 'lómmi bi'líſkáthi
bi'ljeddi fáhhfadh-ho âlaí íhhtiyáthi
wabi 'lbenáti wabenáti 'líbni
facun bihhifdhi 'lîlmi jiddán mônei
thomma benáto 'líbni yeſkothna metaí
hháza 'lbenáto álthulthaína yá fetaí
íllá ídhá âssabahonna áldhacaro
min welidi 'líbni âlaí má dhacarúá
wabâdahonna 'lákhawáto 'llátaí
yodleína bi'lkurbi min áljiháti
ídhá ákhádna fardháhonna wáfiyá
áſkathna áúláda 'lábi 'lbawáciyá
waín yecun ákho lehonna hhádhirán
ââsabahonna bathínán wadhahirán
walaíſa íbno'lákhi bi'lmoâssabi
men mithlaho áú faúkaho feí 'lnaſabi
waín tajid zaúján waómmán wárithá
waíkhwahan lilómmi hházúá 'lthulothá
waákhwahan áydhán liómmi waábi
waáſtugrika 'lmálo bifardhi 'lnoſobi

fájâlahomo cullohomo liómmi
waáhhſib ábáhom hhajarán feí 'lyammi
wákſim âlaí 'líkhwahi thultha 'ltaricah
wahadhihi 'lmeſelaho 'lmuſhtaracah

[7] wálána nebdá bi'lladhaí áradná
feí 'ljeddi wa'líkhwahi ídh waâdná
faálik nahhaú má ákúlo 'lmiſmaâá
wájmâ hhawáſheí 'lcelamáti ájmaâá
wáâlem biánna 'ljeddo dhú áhhwáli
ónbeíca ânhonna âlaí 'ltawáleí
fakáſimo 'líkhwahi feíhonna ídhá
lam yaôdi 'lkaſmo âlaíhi bi'ládhai
fatárahan yákhodho thulthán cámilán
ín cána bi'lkiſmahi ânho názilán
ín lam yecun feíhim dhawú ſihámi
fáknâ biáydháhheí âni íſtifhámi
watárahan yakhodho thultha 'lbákeí
bâda dhaweí 'lforúdhi wa'lárzáki
hadhá ídhá má ádh-hhati 'lmokáſamah
tenkosho âni dháci bi'lmezáhhamah
watárahan yákhodho ſudſa 'lmáli
walaíſa ânho názilán bihháli
wahaú mâa 'línáthi înda 'lkaſmi
mithlo ákhin feí ſahmihi wa'lhhocmi
wáhhſeb beneí 'lábi ledaí 'lîdádi
wárfodh beneí 'lómmi mâa 'lájdádi

wáhhcom âlaí 'líkhwaḣi bâda 'lâddi
hhocmaca feíhim înda fakdi 'ljeddi
wálókhto lá fardḣo mâa 'ljeddi lehá
feímá âlá meſelaḣań cammalehá
zaújoń waómmoń wahomá temámohá
fáâlem fakhaíro ómmaḣin âllámohá
tôrafo yá śáhhi bi'lácdariyyah
waheí bián tahhfadḣo-há hhariyyah

[8] fayofradḣo 'lniśſo lehá wa'lſudſo leh
hhataí tâúli bi'lforúdḣi 'lmojmeleh
thomma yaûúdáni ílaí 'lmokáſameh
camá madḣaí fáhhfadḣ-ho wáſhcor nádḣimeh
wań torid mârifaḣa 'lhhiſábi
letentahaí feíhi ílaí 'lśawábi
watârifo 'lkiſmaḣa wa'ltafśeílá
watâlim álśahheíhha wa'lóśúlá
fáſtakhriji 'lóśúla feí 'lmeſáyili
walá tecun ân hhifdḣihá bidháhili
wahaí ídhá fośśila feíhá 'lkaúlo
thelethaḣoń yedkholo feíhá 'lâúlo
wabâdahá árbaâḣoń temámo
lá âúla yârúhá welá ínthilámo
fálſudſo min ſittaḣi ás-homiń terá
wálthultho wa'lrubô min áthnaí âſhará
wálthumno ín dḣomma ílaíhi 'lſudſo
faáśloho 'lśádiko feíhi 'lhhadſo

árbaâhon yatbaôhá îshrúná
yârifohá 'lhhusábo ájmaûúná
fahadhihi 'lthelethaho 'lósúlo
ín caththorat forúdhohá taûúlo
fatablogo 'lsittaho âkda 'lâshareh
feí súrahin mârúfahin mustathareh
watalhhako 'llataí teleíhá fei 'láthar
feí 'lâúli áfrádán besebâhi âshar
wa'lâdado 'lthálitho kad yaûúlo
bithumnihi fáâmel bimá ákúlo
wa'lnisfo wa'lbakeí áwi'lnisfáni
áslohomá feí hucmihom áthnáni

[9] wa'lthultho min thelethahin yecúno
wa'lrubô min árbaâhin mesnúno
wa'lthumno ín cána famin themániyah
fahadhihi haí 'lósúlo 'lthániyah
lá yedkholo 'lâúlo âlaíhá fáâlemi
thomma ásloca 'ltás-hheíhi feíhá wáksimi
faín tecun min áslihá tasihhhho
fatarco tathweíli 'lhhisábi ribhho
fáâthi cullán sahmaho min áslhi
mocammilán aú âáyilán min âúlihi
waín teraí 'lsihámá laísa tankasim
âlaí dhaweí 'lmeíráthi fátbâ má rusim
wáthlob thareíka 'líkhtisári feí 'lâmal
bi'ldharbi wa'lwafki yojánibca 'lzelel

wárdod ílaí 'lwafki 'lladhaí yowáfiko
wádh́ribho feí 'láśli waánta 'lhhádiko
ín cána jinfáń wáhhidáń áú áctherá
fahhfadh́ wadâ ánca 'ljidála wa'lmirá
waín teraí 'lcathra âlaí ájnáfi
faínnahá feí 'lhucmi înda 'lnáfi
tohhśaro feí árbaâh́iń ákfámi
yârifohá 'lmáhiro feí 'láhh́cámi
momáthiloń min bâdiho monáfibo
wabâdaho mowáfikoń mośahhibo
wa'lrábiô 'lmobáyino 'lmokhálifo
yonbeíca ân tafśeílihinna 'lâárifo
fakhodh mina 'lmomáthilaíni wáhhidá
wakhodh mina 'lmonáfibaíni 'lzáyidá
wakhodh jemeíâ 'lâdadi 'lmobáyini
wadh́ribho feí 'ltháneí welá todáhini

[10] wádh́rib jemeíâ 'lwafki feí 'lmowáfiki
wáfloc bidháca ánhaja 'lth́aráyiki
wádh́ribho feí 'láśli 'lladhaí taáśśilá
waáhhśi má ándh́amma wamá tahhaśśalá
waákfimho fa'lkafma ídhá śahheíhho
yârifoho 'láâjemo wa'lfaśeíhho
fahadhihi mina 'lhhifábi jumalo
yáteí âlaí mithálihinna 'lâmalo
min gaíri tath́weíliń welá 'âtifáfi
fáknâ bimá feíhinna fahú cáfi

wain yemut ákharo kabla 'lkiſmah
fahhakkiki 'lſihámi wáârif kiſmah
wájâl leho meſalahan ókhraí lemá
kad bayyana 'ltafseíla feímá koddimá
wándhor fain wáfakati 'lſihámo
fakhodh hodeíta wafkohá temámo
wádhribho áú jemeíâhá feí 'lſábikah
ín lam yecun baínahomá mowáfakah
fálás-homo 'lókhraí fafeí 'lſihámi
todhrebo áú feí wafkihá temámi
wacullo ſahmin feí jemeíî 'lthániyah
yodhrebo áú feí wafkihá âlániyah
fahadhihi thareíkaho 'lmonáſakhah
fárka bihá rutbaha fadhli ſhámikhah
wain yecun feí muſtahhakki 'lmáli
khonthaín sahheíhhon bayyana 'líſhcáli
fákſim âlaí 'lákalli wa'lyekeíni
tahhdha bihakki 'lkiſmahi 'lmobeíni
wahacadhaí hucmo dhawáti 'lhhamli
yobnaí âlaí 'lyekeíni wa'lákalli

[11] wain yemut kaúmon bihadmin áú garak
áú hháditӏhin âmma 'ljemeíâ ca'lhharak
walam yecun yôlemo hhálo 'lſábiki
falá yowarrath náfikon min náfiki
taôddohom caínnahom ájánibo
wahacadhaí 'lráyyo 'lſadeído 'lsáyibo

wakad átaí 'lkaúlo âlaí má ſheiná
min kiſmah́i 'lmeiráthi ca yebeiná
âlaí th́areíki 'lramzi wa'líſhárah
molakhkhaśáń biáújezi 'lîbárah
fa'lhhamdo lillahi âlaí 'ltemámi
hhamdáń catheíráń tomma feí 'ldawámi
wanaſalo 'lâfwa âni 'ltakśeíri
wakhaíra má námolo feí 'lmeśeíri
wagafra má cána mina 'ldhonúbi
waſatra má cána mina 'lôyúbi
waáfdh́alo 'lśalwah́i wa'ltaſleími
âlaí 'lnebiyyi 'lmuśth́afaí 'lcereími
mohhammediń khaíri 'lánámi 'lâákibi
waálihi 'lgurri dhaweí 'lmenákibi
waśahhbihi 'láfádh́ili 'lábrári
álśifwah́i 'lámáthili 'lákhyári
wahhaſboná 'llaho wanîma 'lcáfeí
dhú 'lîzzi wa'lkodrah́i wa'lálth́áfi

tummat wa'lhhamdo lillahi
rabbi 'lââlemeíni waśalwátoho
waſelámoho âlaí ſayyidiná
mohhammediń álnebiyyi 'lómmiyi
waâlaí álihi waśahhbihi
álth́ayyibeíni álth́ahereíni
laílah́o 'ljemaâh liárbaâi liyáli
khalaúna min ſhewáli ſinnah

áthneí âſhari waſebâ máyiħi
yetheki bi'llahi taâálaí
fakhro 'lſábikáneí
âfá 'llaho ânho.

THE

بغية الباحث عن جمل الموارث
نظم الشيخ الإمام العالم موفق الدين
ابي عبد الله محمد علي بن الحسن الرحبي المعروف
بابن المتقنة رحمه الله تعالى

This & Plates. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. to follow each other in Vol: 3. page: 489.

بسم الله الرحمن الرحيم وبه نستعين

أول ما نستفتح المقالا بذكر حمد ربنا تعالا

فالحمد لله على ما أنعما حمدا به يجلو عن القلب العما

ثم الصلوة بعد والسلام على نبي دينه الإسلام

محمد خاتم رسل ربه وآله من بعده وصحبه

ونسأل الله لنا الإعانه فيما توخينا من الإبانه

عن مذهب الإمام زيد الفرضي إذ كان ذاك من أهم الغر ض ١

علما بأن العلم أوفا ما سعي فيه وأولى ما له العبد دعي

وأن هذا العلم مخصوص بما قد شاع فيه عند كل العلما

وأن زيدا خص لا محالة بما حباه صاحب الرساله

من قوله في فضله منبها أفرضكم زيد وناهيك بها

فكان أولى باتباع التابع لا سيما وقد نحاه الشافعي

فهاك فيه القول بالإيجاز مبرأ من وصمة الألغاز

أسباب ميراث الورى ثلاثه كل يفيد ربه الوراثه

وهي نكاح وولاء ونسب ما بعدهن للمواريث سبب

ويمنع الشخص من الميراث واحدة من علل ثلاث
رق وقتل واختلاف دين فافهم فليس الشك كاليقين
والوارثون في الرجال عشرة اسمهم وهم معروفة مشتهرة
الابن وابن الابن مهما نزلا والاب والجد له وان علا
والاخ من اي الجهات كانا قد انزل الله به القرآنا
وابن الاخ المدلي اليه بالاب فاسمع مقالا ليس بالمكذب
والعم وابن العم من ابيه فاشكر لذي الايجاز والتنبيه
والزوج والمعتق ذو الولاء فجملة الذكور هؤلاء
والوارثات كلهن سبع لم يعط انثى غيرهن الشرع
بنت وبنت ابن وام مشفقة وجدة وزوجة ومعتقة
والاخت من اي الجهات كانت فهذه عدتها قد بانت
واعلم بان الارث نوعان هما فرض وتعصيب على ما قسما
فالفرض في نص الكتاب ستة لا فرض في الارث سواها البتة ٢٠
نصف وربع ثم نصف الربع والثلث والسدس بنص الشرع
والثلثان وهما التمام فاحفظ فكل حافظ امام

فالنصف فرض خمسة افراد الزوج والانثى من الاولاد
وبنت الابن عند فقد البنت والاخت في مذهب كل مفتي
وبعدها الاخت التي من الاب عند انفرادهن من معصب
والربع فرض الزوج ان كان معه من ولد الزوجة من قد منعه
وهو لكل زوجة او اكثرا مع عدم الاولاد فيما قدرا
والثمن للزوجة والزوجات مع البنين ومع البنات
او مع اولاد البنين فاعلم وابق لا تقارب الدروس واسلم
والثلثان للبنات جمعا ما زاد عن واحدة فسمعا
وهو كذاك لبنات الابن فافهمه مقالي فهما صافي الذهن
وهو للاختين فما يزيد قضى به الاحرار والعبيد
هذا اذا كن لام واب او لاب فاعمل بهذا تصب
والثلث فرض الام حيث لا ولد ولا من الاخوة جمع ذو عدد
كاثنين او ثنتين او ثلاث حكم الذكور فيه كالاناث
وان يكن زوج وام واب فثلث الباقي لها مرتب
وهكذا مع زوجة فصاعدا فلا تكن من العلوم قاعدا

والثلث للاثنين أو ثنتين من ولد الأم بغير مين
وهكذا إن كثروا فزادوا فما لهم فيما سواه زاد
ويستوي الإناث والذكور فيه كما قد أوضح المسطور
والسدس فرض سبعة من العدد أب وأم ثم بنت ابن وجد
والأخت بنت الأب ثم الجدة وولد الأم تمام العدة
والأب يستحقه مع الولد وهكذا الأم بتنزيل الصمد
وهو لها أيضا مع الاثنين من إخوة الميت فقس هذين
والجد مثل الأب عند فقده في حوز ما يصيبه ومده
إلا إذا كان هناك إخوة لكونهم في القرب وهو أسوة
وحكمهم وحكمه سيأتي مكمل البيان في الحالات
وبنت الابن تأخذ السدس إذا كانت مع البنت مثالا يحتذى
وهكذا الأخت مع الأخت التي بالأبوين يا أخي أدلت
فإن تساوى نسب الجدات وكن كلهن وارثات
فالسدس بينهن بالسوية في القسمة العادلة الشرعية
وكل من أدلت بغير وارث فما لها حظ في الموارث

ويسقط البعدى بذات القرب في المذهب الأولى فقل لي حسبي

وقد تناهت قسمة الفروض بغير إشكال ولا غموض

وحق أن نشرع في التعصيب بكل قول موجز مصيب

فكل من أحرز كل المال من القرابات أو الموالي

أو كان ما يفضل بعد الفرض له فهو أخو العصوبة المفضله

كالأب والجد وجد الجد والابن عند قربه والبعد

والأخ وابن الأخ والأعمام والسيد المعتق ذي الإنعام

وهكذا بنوهم جميعا فكن لما أذكر سميعا

وما لذي البعدى مع القريب في الإرث من حظ ولا نصيب

والأخ والعم لأم وأب أولى من المدلي بشطر النسب

والابن والأخ مع الإناث يعصبانهن في الميراث

وليس في النساء طرا عصبه إلا التي منت بعتق الرقبه

والأخوات إن يكن بنات فهن معهن معصبات

والجد محجوب عن الميراث بالأب في أحواله الثلاث

وهكذا ابن الابن بالابن فلا تبغ عن الحكم الصحيح معدلا

وتسقط الجدات من كل جهة بالام فاحفظه وقس ما اشبهه
وتسقط الاخوة بالبنينا وبالاب الادنى كما روينا
او ببني البنين حيث كانوا سيان فيه الجمع والوحدان
ويفضل ابن الام بالاسقاط بالجد فاحفظه على احتياط
وبالبنات وبنات الابن فكن بحفظ العلم جدا يعني
ثم بنات الابن يسقطن متى حاز البنات الثلثين يا فتى
الا اذا عصبهن الذكر من ولد الابن على ما ذكروا
وبعدهن الاخوات اللاتي يدلين بالقرب من الجهات
اذا اخذن فرضهن وافيا اسقطن اولاد الاب البواكب
وان يكن اخ لهن حاضرا اعصبهن باطنا وظاهرا
وليس ابن الاخ بالمعصب من مثله او فوقه في النسب
وان تجد زوجا واما ورثا واخوة للام حازوا الثلثا
واخوة ايضا لام واب واستغرقوا المال بفرض النصب
فاجعلهم كلهم لام واحسب اباهم حجرا في اليم
واقسم على الاخوة ثلث التركة فهذه المسئلة المشتركة

7

والآن نبدأ بالذي أردنا في الجد والاخوة اذ وعدنا
فالق نحو ما أقول السمعا واجمع حواشي الكلمات جمعا
واعلم بأن الجد ذو أحوال أنبيك عنهن على التوالي
يقاسم الاخوة فيهن اذا لم يعد القسم عليه بالاذى
فتارة يأخذ ثلثا كاملا ان كان بالقسمة عنه نازلا
ان لم يكن فيهم ذوو سهام فاقنع بايضاحي عن استفهام
وتارة يأخذ ثلث الباقي بعد ذوي الفروض والارزاق
هذا اذا ما كانت المقاسمه تنقصه عن ذاك بالمزاحمه
وتارة يأخذ سدس المال وليس عنه نازلا بحال
وهو مع الاناث عند القسم مثل أخ في سهمه والحكم
واحسب بني الاب لدى الاعداد وارفض بني الام مع الاجداد
واحكم على الاخوة بعد العد حكمك فيهم عند فقد الجد
والاخت لا فرض مع الجد لها فيما عدا مسألة كملها
زوج وأم وهما تمامها فاعلم فخير أمة علامها
تعرف يا صاح بالاكدرية وهي بأن تحفظها حرية

فيفرض النصف لها والسدس مع له حتى تعول بالفروض المجمله
ثم يعودان إلى المقاسمه كما مضى فاحفظه واشكر ناظمه
وإن ترد معرفة الحساب لتنتهي فيه إلى الصواب
وتعرف القسمة والتفصيلا وتعلم التصحيح والأصولا
فاستخرج الأصول في المسائل ولا تكن عن حفظها بذاهل
وهي إذا فصل فيها القول ثلاثة يدخل فيها العول
وبعدها أربعة تمام لا عول يعروها ولا انثلام
فالسدس من ستة أسهم نوا والثلث والربع من اثني عشرا
والثمن إن ضم إليه السدس فأصله الصادق فيه الحدس
أربعة يتبعها عشرونا يعرفها الحساب أجمعونا
فهذه الثلاثة الأصول إن كثرت فروضها تعول
فتبلغ الستة عقد العشره في صورة معروفة مشتهره
وتلحق التي تليها في الأثر في العول إفرادا بسبعة عشر
والعدد الثالث قد يعول بثمنه فاعمل بما أقول
والنصف والباقي أو النصفان أصلهما في حكمهم اثنان

والثلث من ثلاثة يكون والربع من أربعة مسنون
والثمن إن كان فمن ثمانية فهذه هي الأصول الثانية
لا يدخل العول عليها فاعلم ثم اسلك التصحيح فيها واقسم
فإن تكن من أصلها تصح فترك تطويل الحساب ربح
فأعط كلا سهمه من أصله مكملا أو عائلا من عوله
وإن ترى السهام ليست تنقسم على ذوي الميراث فاتبع ما رسم
واطلب طريق الاختصار في العمل بالضرب والوفق يجانبك الزلل
واردد إلى الوفق الذي يوافق واضربه في الأصل وأنت الحاذق
إن كان جنسا واحدا أو أكثرا فاحفظ ودع عنك الجدال والمرا
وإن ترى الكسر على أجناس فإنها في الحكم عند الناس
تحصر في أربعة أقسام يعرفها الماهر في الأحكام
مماثل من بعده مناسب وبعده موافق مصاحب
والرابع المباين المخالف ينبيك عن تفصيلهن العارف
فخذ من المماثلين واحدا وخذ من المناسبين الزائدا
وخذ جميع العدد المباين واضربه في الثاني ولا تداهن

واضرب جميع الوفق في الموافق واسلك بذاك أنهج الطرائق
واضربه في الأصل الذي تأصلا واحص ما انضم وما تحصلا
واقسمه فالقسم إذا صحيح يعرفه الأعجم والفصيح
فهذه من الحساب جمل يأتي على مثالهن العمل
من غير تطويل ولا اعتساف فاقنع بما بين فهو كاف
وإن يمت آخر قبل القسمة فحقق السهام واعرف قسمه
واجعل له مسألة أخرى كما قد بين التفصيل فيما قدما
وانظر فإن وافقت السهام فخذ هديت وفقها تمام
واضربه أو جميعها في السابقة إن لم يكن بينهما موافقة
والأسهم الأخرى ففي السهام تضرب أو في وفقها تمام
وكل سهم في جميع الثانية يضرب أو في وفقها علانية
فهذه طريقة المناسخة فارق بها رتبة فضل شامخة
وإن يكن في مستحق المال خنثى صحيح بين الإشكال
فاقسم على الأقل واليقين تحظ بحق القسمة المبين
وهكذا حكم ذوات الحمل يبنى على اليقين والأقل

وإن يمت قوم بهدم أو غرق أو حادث عم الجميع كالحرق
ولم يكن يعلم حال السابق فلا يورث زاهق من زاهق
تعدهم كأنهم أجانب وهكذا الرأي السديد الصائب
وقد أتى القول على ما شئنا من قسمة الميراث كما بينا
على طريق الرمز والإشارة ملخصا بأوجز العبارة
فالحمد لله على التمام حمدا كثيرا تم في دوام
ونسأل العفو عن التقصير وخير ما نأمل في المصير
وغفر ما كان من الذنوب وستر ما كان من العيوب
وأفضل الصلاة والتسليم على النبي المصطفى الكريم
محمد خير الأنام العاقب وآله الغر ذوي المناقب
وصحبه الأفاضل الأبرار الصفوة الأماثل الأخيار
وحسبنا الله ونعم الكافي ذو العز والقدرة والألطاف

تمت والحمد لله رب العالمين وصلواته وسلامه
على سيدنا محمد صلى الله عليه وعلى آله وصحبه الطيبين الطاهرين
ليلة الجمعة لأربع ليال خلون من شوال سنة [illegible] وسبعمائة
[illegible] الله تعالى   محمد الشاقاني عفا الله عنه

THE DESIRED OBJECT OF THE INQUIRER

CONCERNING ALL THE RULES OF INHERITANCE:

Composed by the learned *Shaikh*, the *Imám*

Mowaffiko'ddein, father of *Abdalla*,

Mohammed, son of *Ali*, son of *Hosain*,

Al Rahabi, commonly called *Ibno'l*

Motakanna. May God be merciful to him!

In the name of God, the Clement, the Merciful; and from Him we seek aſſiſtance.

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[1] FIRST, we open the diſcourſe
With pronouncing the praiſe of our Lord moſt High:
Praiſe then to GOD for what he hath beſtowed,
Praiſe, by which we remove blindneſs from the ſight!
Next, benediction afterwards and ſalutation
To the Prophet, whoſe religion is the ISLA'M,
MOHAMMED, ſeal of his Lord's meſſengers,
And his family, after him, and his friends!
And let us pray GOD for his aid to us
In what we have propoſed to explain
From the ſyſtem of the Imám, ZAID ALFARADHI*,
(Since this is among the nobleſt of purpoſes)
By learning; for learning is the moſt deſerving of efforts
In it, and the worthieſt vocation of the pious;
And this *branch of* knowledge peculiarly belongs to what
Has been openly declared among all the learned;

* *Faradhéi,* a man ſkilled in the *faráyidh,* or *ſacred ordinances* contained in the Alcoran.

And ZAID has unqueſtionably a juſt title
To what the lord of the miſſion conferred on him,
By pronouncing his excellence, clearly ſaying,
" ZAID will teach you the law:" O glorious encomium!
He, therefore, beſt deſerves to be followed by the ſtudent,
Eſpecially ſince SHAFIEI takes him for a guide.
This then is his doctrine epitomiſed
Free from a particle of ambiguity.
The cauſes of inheritance among men are three;
(The poſſeſſor of any one has the advantage of ſucceſſion)
And they are wedlock, collateral relation, and deſcent:
There is not beſides them a ſingle cauſe of inheritance.

[2] And any one of three incapacities
Excludes a perſon from the ſucceſſion;
Servitude, and homicide, and a difference of faith:
Underſtand then; ſince doubt is not like certainty.
And thoſe, who inherit among males, are ten;
Their names are known, and every where mentioned:
The ſon, and the ſon's ſon, however they deſcend,
And the father, and his father, in the aſcending line;
And the brother, on whichever ſide he ſtands,
Since GOD cauſed the KORAN to deſcend in his favour;
And the ſon of a brother related by the ſame father,
(Hear now the diſcourſe containing no falſehood)
And the paternal uncle, and ſuch uncle's ſon,
(Be thankful to him, who explains conciſely and clearly)
And the huſband, and the emancipater nearly connected;
And all the males, *who inherit*, are theſe.

And all the inheriting females are ſeven,
(To no woman, but them, does the law give that title)
The daughter, and the ſon's daughter, and the tender mother,
And the grandmother, and the wife, and the emancipatreſs,
And the ſiſter, on whichever ſide ſhe ſtands:
And this their number *thus* appears.
And know, that inheritance is of two ſorts, which *are*
The SHARE, and the HEIRSHIP * of what is diſtributable.
Now the ſhares, by the declaration of the book, are ſix:
(Beſides them *is* no ſhare in the inheritance)
A moiety, and a fourth; next, half a fourth,
And a third, and a ſixth, as the law declares,
And two thirds; and theſe *are* the whole.
Remember then; for "Every one, who remembers, *is* an IMAM †."

[3] A moiety then *is* the ſhare of five perſons,
The huſband, and the female child,
And the daughter of a ſon, on failure of daughters,
And the *whole* ſiſter, by the opinion of every MUFTI,
And, after her, the ſiſter, who has the ſame father;
This when they ſtand alone without any HEIR.
And a fourth *is* the ſhare of the huſband, if there be with him
Any children of the wife, who deprive him *of more*;
And this *is* for every wife, or more *than one*
On failure of children, as it is ordained.
And the eighth *is* for the wife, or the wives,
Together with ſons or with daughters ‡,

* Pronounced in India, *ferz* and *áſba*. See the laſt words of the report by the *Mahomedan* doctors in the *Patna* cauſe.

† A ſaying, I believe, of *Mahomed:* he meaned *a rememberer of his oral precepts.* Hence the name of *Hafidh*, or *Hafiz*, was aſſumed by many illuſtrious perſons, and, among them, by the celebrated poet.

‡ See the anſwer of *Mohammed Káſim* to the *thirteenth* queſtion propoſed to him in the *Patna* cauſe.

Or with children of ſons: learn then,
And remain firm in venerating ſtudy, and proſper.
And two thirds are for the daughters all together,
When there are more than one; (hear attentively)
And the ſame *portion is* for the daughters of a ſon:
(Comprehend my diſcourſe with clear diſcernment)
This alſo *is* for two ſiſters, and for what exceeds *that number*;
The ingenuous and the pious have thus decided:
This, whether they be by the father and the mother,
Or by the father *only*. (Act by this *rule*; thou wilt be right)
And the third *is* the mother's ſhare, when *there is* no child,
Nor any aſſemblage or number of brethren,
As two brothers, or two ſiſters, or three;
The rule in this *caſe* regards males as well as females.
And, if there be a huſband, and a mother, and a father,
A third of what remains is allotted to her;
And ſo with a wife: (advance then,
And be not ſeated apart from the ſciences.)

[4] And a third *is* for two males or two females
Of the mother's children, without deceit;
And ſo, if there be more, and they ſeek *their allotment*,
There is no proviſion for them in what exeeeds that ſhare,
And females and males are held equal
In this *diſtribution*, as the written law declares.
And a ſixth *is* the ſhare of ſeven in number,
The father, and the mother, then the ſon's daughter, and the
grandfather,

And the ſiſter, daughter of the father, next the grandmother,
And the mother's child: the number is complete.
And the father has a right to it with the children,
And ſo the mother, by the revelation of the Eternal:
And the ſame is for her with two
Of the dead man's brothers: give thoſe two a juſt allotment.
And the grandfather *is* like the father, on his death,
In the diſtribution of what accrues to him and relieves him,
Except when there are brothers *living*,
Since they are preferable to him in proximity*;
And their due and his due ſhall be introduced
With a full explanation in the *different* caſes.
And the ſon's daughter takes a ſixth, when
She is with a daughter, alike in deſcent,
And thus a ſiſter with a ſiſter, who
Is related, O my brother, by the ſame father.
And, if the relation of the grandmothers be equal,
Both of them are called to the ſucceſſion;
And a ſixth *is divided* between them equally
By the juſt *and* the legal *mode of* partition.
And every female, who claims through one not inheriting,
Has herſelf no portion of the inheritance.

[5] And the diſtant kinſwoman is excluded by the near
By the better opinions: (ſay now to me, "Enough.")
And *here* ends the diſtribution of the SHARES,
Without perplexity or intricacy:

* The margin has *minho* for *wahú*. From this verſe it appears, that the degrees of conſanguinity are computed by the *Mahomedans* in the ſame manner as by our common lawyers.

And *it is* juſt, that we propound the law of HEIRSHIP
With every ſentence conciſe *and* exact.
Now every one, who appropriates all the eſtate,
Among the near deſcendants or relations,
Or who takes what remains after the portions,
He is diſtinguiſhed by the title of HEIR*,
As the father, and the grandfather, and his father,
And the ſon, in a near and a remote degree,
And the brother, and the brother's ſon, and the uncles,
And the maſter, who generouſly manumitted *his ſlave*.
And thus their ſons, all of them:
(Be attentive then to what I pronounce).
And *there is not* to the diſtant, with the near, kinſman
Any ſhare or portion in the inheritance.
And the brother and the uncle by mother and father
Are preferred to thoſe deſcended by the half blood.
And the ſon and the brother with females
Have the heirſhip over them in the eſtate:
And there is not among women any heireſs
Except her, who kindly freed the *enſlaved* neck.
And the ſiſters, if there be daughters,
Take the reſidue after their portions.
And the grandfather is precluded from inheriting
By the father in *all* his three caſes;
And thus the grandſon by the ſon: (do not then
Turn aſide, in deviation from the clear rules)

* See *A Narrative of the Proceedings in the* Patna *Cauſe*, p. 11. *Note* b. The *Arabick* verb *ás'íaba* primarily ſignifies *to collect and bind together the branches of a tree*: hence the ſecondary ſenſe, *to conſtitute the heir and head of a family*.

[6] And the grandmothers on each ſide are excluded
By the mother: (remember this *rule*, and decide conformably)
And brothers are excluded by ſons
And by the neareſt progenitor, as we are taught,
Or by ſons' ſons, when there are *any*;
A number and one are in this reſpect alike.
And the mother's ſon remains in excluſion
By the grandfather (remember this with care)
And by the daughters, and the ſon's daughters:
(Be very aſſiduous in committing knowledge to memory)
Beſides, the ſon's daughters are excluded, when
The daughters take two thirds, O young man,
Except when a male has the heirſhip over them
Of the ſon's children, by what they aſſert:
And, after them, the ſiſters, who
Deſcend in proximity from *both* ſides,
When they take their complete portions,
Exclude the weeping daughters of the *dead* father;
And, if they have a brother preſent,
He has the heirſhip over them, in private and publick,
And the brother's ſon is not the heir over
Whoever is equal to, or above, him in deſcent.
And, if thou find a huſband and a mother inheriting,
And brothers by the mother, they take *each* a third;
And ſo *if there be* brothers by the mother and the father,
And the whole eſtate is compriſed in the allotment of ſhares,

Place them all to *the ſide of* the mother,
And conſider their father as a rock in the ſea,
And divide among the brethren a third of the eſtate left,
And this *is* the caſe of *muſhtaraca*, *or* parcenary.

[7] And now we will enter upon what we deſire
Concerning the grandfather and the brothers, as we promiſed.
Incline then thine ear to what I ſhall ſay,
And collect at once the whole purport of my words;
And know, that the grandfather has *different* caſes;
I will inform thee of them ſucceſſively:
And he has a ſhare with the brothers in them, when
The diviſion redounds not to any loſs upon him.
And ſometimes he takes an entire third,
If there be in the diſtribution any deſcendants from him,
And there be not among them any entitled to ſhares,
(Be content with my explanation without queſtions)
And ſometimes he takes a third of the remainder
After thoſe, who have portions and proviſions;
This, when the dividend is become
Too diminiſhed for the other *ſhare* by the preſs *of claimants*.
And ſometimes he takes a ſixth of the property,
And there is no deſcendant from him in *that* caſe;
And he, with females in the diviſion, is
Like the brother in his ſhare and his right.
And reckon the father's children in the number,
(And leave the mother's children with the grandfathers)

And, after that number, give to the brethren
Thy juſt allotment among them on failure of the grandfather.
And the ſiſter has no ſhare with the grandfather
In what exceeds the caſe already concluded;
The conſort and the mother, and theſe two *are* all of them,
(Know then, for the beſt of the ſect is he who knows beſt)
Are called, O friend, the *ácdariyyah** ;
And they deſerve to be remembered by thee.

[8] Half then is given to her, and a ſixth to him,
Until there is a remainder after the entire ſhares,
Then they return to the diſtribution
As before-mentioned: (recollect it, and thank the author)
And, if thou deſire a knowledge of computation,
Thou wilt by its means attain the right proceeding:
And thou wilt underſtand diviſions and analyſis,
And wilt be acquainted with integers and fractions;
Extract then the roots in *ſolving* problems †,
And be not remiſs in committing them to memory;
Now they, when the diſcourſe about them is preciſe,
Are three, to which a remainder belongs,
And, after them, four complete *diviſors*,
To which no remainder belongs, nor any fraction ‡.
Now the ſixth, thou wilt ſee, *is* from ſix portions,
And the third and the fourth from twelve;
And if to an eighth a ſixth be added,
The *new* root, concerning which the calculation is juſt,

* The *Arabian* lexicographers give this name to the *huſband* or *wife*, the *mother*, the *grandfather*, and the *whole* ſiſter; poſſibly, becauſe the rules of ſucceſſion are a little *diſturbed* in favour of them.

† By *ás'l*, or *root*, he muſt mean the *denominator* of a fraction.

‡ He, probably, conſiders the whole eſtate as *twelve*, which has *four* diviſors, beſides unit.

Becomes four, which twenty follow,
As arithmeticians univerſally know*.
And theſe three roots,
If the ſhares be many, leave a remainder.
And let ſix come to the connexion of ten
In the known table commonly delineated †,
And let that follow, which ſucceeds it in the ſeries,
In the exceſs, by diſtinct progreſſions, to ſeventeen;
And the third number leaves a remainder
Of its eighth part: (proceed then, as I direct)
And half and what remains, or the two halves,
Their root, in the rule concerning them, *is* two.

[9] And the third comes *obviouſly* from three;
And the fourth *is* formed from four;
And the eighth, if it be *required*, *is* from eight;
And theſe are the ſecond roots,
To which no remainder belongs: know this;
Then purſue the method of verifying it, and diſtribute:
And, if thou haſt verified the root,
The end of lengthened computation is clear gain.
Give then to each perſon his ſhare, from his root,
Complete, or broken from its remainder.
And, if thou ſee that the ſhares cannot be diſtributed
To the partakers of the inheritance, follow what is preſcribed,
And ſeek the way of compendiouſneſs in the work
By multiplication and proportion: this will remove error from thee,

* In our notation (which the *Aſiaticks*, if they are wiſe, will adopt), $\frac{1}{8} + \frac{1}{6} = \frac{7}{24}$.

† This paſſage I do not underſtand, not knowing the *table* to which it refers. The *ſexagenary table*, which *Wallis* exhibits in the ſeventh chapter of his *Algebra*, is commonly uſed in *Aſia* for multiplication and diviſion. See CHARDIN, vol. III. p. 155.

And reſtore to the whole quantity what agrees with it,
And multiply it by the root, and be thou vigilant;
Whether there be one denomination or more,
Remember well, and diſmiſs from thee doubt and difficulty:
And, if thou ſee multiplicity in the kinds,
Then they, by the rule among men,
Are numerically ranged in four terms,
The ſkilful *accountant* will know them by the rules;
The ſimilar *term*, after it the proportional,
And, after that, the concordant accompanying,
And the fourth *is* the diſcordant ſeparated;
(The intelligent man will inform thee of their diſtinctions)
Take then from the ſimilars one,
And take from the proportionals the reſt,
And take the entire number of diſcordants,
And multiply them by the ſecond *term*; and be not deceived.

[10] And, mix the whole quantity with the concordant,
And purſue by it the plaineſt of ways;
And multiply it into the root, which thou haſt inveſtigated,
And compute what is the ſum, and what it amounts to;
And divide it; and, if the diviſion be juſt,
The illiterate and the eloquent man will equally know it *:
And this is the whole of the computation,
(The work thus proceeds in ſimilar caſes)
Without prolixity or digreſſion;
Be ſatisfied then with what it contains; for it is ſufficient †.

* The preceding verſes contain an awkward rule of *practice*; but it hence appears, that *Chardin* was miſtaken, when he aſſerted, that neither the *Indians* nor *Perſians* of his time were at all acquainted with the common *practical rules:* ſee his chapter on the *Perſian Arithmetick*.

† It can only be of uſe, as an artificial memory, to thoſe who already know the rules, but is inſufficient for the teaching of them. Theſe two or three pages are very enigmatical; but I ſhould not deſpair of explaining them, if I had leiſure to read a few arithmetical books of the *Arabs* or *Perſians*.

And if one perſon die before the diſtribution,
Make the ſhares juſt, and know his *proper* diviſion;
And ſtate for him a freſh queſtion, as it
Has been diſtinctly explained, in what precedes:
And conſider; and, if the ſhares agree,
Take them; thou art right; the quantity is complete;
And mix it, or all of them, into the preceding,
If there be not an agreement between them,
And the new ſhares into the *former* ſhares
Are blended, or into the entire quantity;
And every ſhare into the aggregate of the ſecond
Is mixed, or into the whole quantity, manifeſtly:
And this is the method of *monáſakhah** ;
Mount then by it the lofty degrees of excellence.
And, if there be among the claimants of the eſtate
A real hermaphrodite, removing *all* doubts,
Diſtribute to the leſs *evident* and to the certain;
Thou wilt allot with juſtice the clear portion;
And this is the rule of pregnant women,
Which is founded on the certain, and the leſs *evident*.

[11] And, if many kinſmen die by ruin or drowning,
Or a calamity overwhelming all, as fire,
And the caſe of the ſurvivor be not known,
And one deceaſed cannot be heir to another deceaſed,
Reckon them *all*, as if they were ſtrangers;
And this is the ſound and true determination.

* The grammarians, tranſlated by *Golius,* thus explain the word *tenáſokh* or *monáſakhah:* "Mors "et ſucceſſio continua hæredum, quæ fit integrâ manente et indiviſâ hæreditate;" but the laſt words convey no adequate idea of the thing.

And now the diſcourſe has come to what we deſired
Concerning the diſtribution of eſtates, ſo that it is made clear,
By way of ſhort hint and alluſion,
Explained in an abbreviation of the ſenſe.
Praiſe then to GOD in perfection,
Praiſe, abundant, complete in eternity;
And let us aſk forgiveneſs for our defects,
And the beſt of what we hope in the place aſpired to,
And pardon for what is paſſed of our ſins,
And a covering for what is paſſed of our faults;
And the faireſt of ſalutations and beniſons
On the prophet, the pure, the illuſtrious,
MOHAMMED, the beſt of created beings, the laſt *of prophets*,
And on his family, bright with glorious qualities,
And his companions, the excellent, the noble,
The ſpotleſs, the exalted, the beneficent!
And our ſufficient help is GOD! O all-ſufficient!
Endued with greatneſs, and with power, and with clemency!

The work is ended. Praiſe be to GOD,
The ruler of worlds! and his bleſſing
And peace on our lord
MOHAMMED, the Unlettered Prophet,
And on his family and his companions,
The excellent, the unblemiſhed!
On Friday night, one of the four nights
at the cloſe of *Shewál* in the year

ſeven hundred and twelve *

The Tranſcriber, ſurnamed

FAKHRO'L SA'BIKA'NI

(or, Excelling his Predeceſſors)

confides in GOD Moſt High:

May GOD forgive his ſins!

* Y. C. 1312.

AL

AL SIRÁJIYYAH:

OR,

THE MOHAMMEDAN LAW OF INHERITANCE;

WITH

A COMMENTARY,

BY

SIR WILLIAM JONES.

THE

PREFACE.

THE two *Muſelman* authors, whom I now introduce to my countrymen in *India*, are *Shaikh* SIRA'JU'DDI'N, a native of *Sejávend*, and *Sayyad* SHARI'F, who was born at *Jurján* in *Khwárezm* near the mouth of the *Oxus*, and is ſaid to have died, at the age of ſeventy-ſix years, in the city of *Shíráz*: their compoſitions have equal authority in all the *Mohammedan* courts, which follow the ſyſtem of ABU' HANI'FAH, with thoſe of LITTLETON and COKE in the courts at *Weſtminſter*; and there is, indeed, a wonderful analogy between the works of the old *Arabian* and *Engliſh* lawyers, and between thoſe of their ſeveral commentators; with this difference in favour of our own country, that LITTLETON is always too clear to need a gloſs, and with this difference in favour of the *Arabs*, that the ſole object of SHARI'F was to explain and illuſtrate his text, without an oſtentatious diſplay of his own erudition; but, when it is admitted, that a deſire of extreme brevity has often made the *Sirájiyyah* obſcure, the reader ſhould in candour allow, that every author muſt appear to great diſadvantage in a literal tranſlation, eſpecially when his own idiom differs totally from that of his tranſlator, when his terms of art muſt be rendered by new words, which uſe alone can make eaſy, and when the ſyſtem, which he unfolds to his countrymen, has no reſemblance to any other, that the world ever knew. In the *Sharífiyyah* (for that is the popular title of the *Arabian* comment)

ment) we find little or no obſcurity; and, if there be a fault in the book, it is a ſcrupulous minuteneſs of explanation, and a needleſs anxiety to remove every little cloud, which the reader himſelf might diſperſe by the ſlighteſt exertion of his intellect. Both works were tranſlated into *Perſian* by the order of Mr. HASTINGS; and the tranſlation, which bears the name of *Maulavi* MUHAMMED KA'SIM, muſt appear excellent, and would be really uſeful, to ſuch as had not acceſs to the *Arabick* originals; but the text and comment are blended without any diſcrimination, and both are ſo intermixed with the notes of the tranſlator himſelf, that it is often impoſſible to ſeparate what is fixed law from what is merely his own opinion: he has alſo erred (though it be certainly a pardonable errour) on the ſide of clearneſs, and has made his work ſo tediouſly perſpicuous, that it fills, incluſively of a turgid and flowery dedication, about ſix hundred pages, and a faithful verſion of it in *Engliſh* would occupy a very large volume.

If the pains, which have been taken to render my own work as complete as poſſible, be meaſured by the ſize of it, they muſt be thought very inconſiderable; but in truth no greater pains could have been taken with any work; and it would have been a far eaſier taſk to have dictated or written a verbal tranſlation of the two comments on my text, than to have made a careful ſelection of all that is important in them; for which purpoſe I peruſed each of them three times with the utmoſt attention, and have condenſed in little more than fifty ſhort pages the ſubſtance of them both, without any ſuperfluous paſſage, that I ſhould wiſh to be retrenched, and with as much perſpicuity as I was able to give, in ſo ſhort a compaſs, to a ſyſtem in ſome parts rather abſtruſe: leſt men of buſineſs, for whom the book is intended, ſhould be alarmed at firſt ſight by the magnitude of it, I have omitted all the minute criticiſm, various readings,

readings, and curious *Arabian* literature; moſt of the anecdotes concerning old lawyers, and all their ſubtil controverſies with the arguments on both ſides; together with the demonſtrations of arithmetical rules and the very long proceſſes, after the prolix method of the *Arabs*, in words inſtead of figures. Practical utility being my ultimate object in this work, I had nothing to do with literary curioſities, how agreeable ſoever they might have been in their proper places; but, in order to attain that object by a full explanation of every thing uſeful in my text, I was under a neceſſity of retaining the *Arabian* phraſeology both in law and arithmetick, and muſt requeſt the *Engliſh* reader to diſmiſs from his mind, while he ſtudies the *Sirájiyyah*, thoſe appropriated ſenſes, in which many of our words, as *heir*, *inheritance*, *root*, and the like, are uſed in our own ſyſtems. One *Arabick* word I was at a loſs to tranſlate preciſely in our language without circumlocution: the chief problem, in the diſtribution of eſtates among *Muſelman* heirs, is *to find the leaſt number, by which an eſtate muſt be divided, ſo that all the ſhares and the reſidue may be legally diſtributed without a fraction:* this they call *integration*; but, if I could have hazarded ſuch a word in *Engliſh*, the frequent repetition of it would have been extremely harſh; and I have generally called it *arrangement* or *verification*, which are popular ſenſes of the *Arabick* verbal noun; but the number ſought, or, to uſe the *Arabian* expreſſion, *the integrant of the caſe*, I have uſually named the *diviſor* of the eſtate.

It will be ſeen in the *Sirájiyyah*, that the ſyſtem of ZAID, though in part exploded by ABU HANI'FAH, had very powerful ſupporters, and its author is always mentioned in terms of reſpect: it is the ſyſtem, which I publiſhed at *London* above ten years ago; and I am not ſurpriſed, that, without a native aſſiſtant or even a marginal gloſs, I could not then interpret the many technical words, which no dictionary

tionary explains, except in their popular ſenſes; but, though my literal verſion of the tract by ALMUTAKANNA, ſeems for pages together like a ſtring of enigmas, yet the following work makes every ſentence in it perfectly clear; and the original, which was engraved from a very old manuſcript, appears to be a lively and elegant epitome of the law of inheritance according to ZAID, but manifeſtly deſigned to aſſiſt the memory of young ſtudents, who were to get it by heart, when they had learned the rules from ſome longer treatiſe, or from the mouths of their preceptors. This may be no improper place to inform the reader, that, although ABU HANI'FAH be the acknowledged head of the prevailing ſect, and has given his name to it, yet ſo great veneration is ſhown to ABU YU'SUF and the lawyer MUHAMMED, that, when they *both* diſſent from their maſter, the *Muſelman* judge is at liberty to adopt either of the two deciſions, which may ſeem to him the more conſonant to reaſon and founded on the better authority.

I am ſtrongly diſpoſed to believe, that no poſſible queſtion could occur on the *Mohammedan* law of ſucceſſion, which might not be rapidly and correctly anſwered by the help of this work; but it would be eaſy to confirm or invalidate my opinion by the following method. Let one capital letter, or more, if neceſſary, repreſent each of the ſharers, reſiduaries, and diſtant heirs; and let thoſe letters be the initials of the ſeveral words, in aid of the memory, but ſo choſen (as without difficulty they may be) that all may be different; let them be placed in alphabetical order, and connected by the ſign of addition; let an enumeration be then made, by the known rule, of all the poſſible caſes, in which they can occur, two and two, three and three, and ſo forth; let them accordingly be arranged in tables from the loweſt number to the higheſt; and let the ſhare or allotment of each be ſet above the letter, in the place of an exponent. If the queſtion then were propoſed, in what manner the property of HINDA muſt be diſtributed among

among her *daughter*, her *ſiſter by the ſame father only*, and the *daughter of her ſon*, the table of the *third* claſs would exhibit this formula $D\,\frac{3}{6}$ + $DF\,\frac{2}{6}$ + $DS\,\frac{1}{6}$; or, if AMRU had left his *wife*, *two daughters*, and *both his parents*, the formula in the *fourth* table would be $2\,D\,\frac{16}{27} + F\,\frac{4}{27} + M\,\frac{4}{27} +$ $W\,\frac{3}{27}$; where the denominator of the index would be the *integrant*, as the *Arabs* call it, *of the caſe*, and the numerator would point out the ſeveral allotments: thus might we conſtruct a ſet of tables, mathematically accurate, in which the legal diſtribution, in every poſſible caſe, might be ſeen in a moment without thought and even without learning; and ſuch a blind facility, though not very conſiſtent with the dignity of ſcience, would certainly be convenient in practice. We might alſo arrange the whole in a ſynthetical method (of all the moſt luminous and ſatisfactory) by beginning with the *ſentences* of the *Korân*, as with indubitable axioms, followed by the genuine oral *maxims* of MUHAMMED; by ſubjoining the *points*, on which all the learned have at length agreed, and by concluding with *caſes* deduced from thoſe three ſources of juridical knowledge, to which there ſhould be conſtant references by numbers in the manner of geometricians: this method I propoſe to adopt in the Digeſt, from which I have ſeparated the *Sirájiyyah*, becauſe it ſeemed worthy of being exhibited entire, and may be conſidered as Inſtitutes of *Arabian* Law on the important title, mentioned by the *Britiſh* legiſlature, of *inheritance and ſucceſſion to lands, rents, and goods*.

Unleſs I am greatly deceived, the work, now preſented to the publick, decides the queſtion, which has been ſtarted, *whether, by the* Mogul *conſtitution, the ſovereign be not the ſole proprietor of all the land in his empire, which he or his predeceſſors have not granted to a ſubject and his heirs*; for nothing can be more certain, than that *land, rents,* and *goods* are, in the language of all *Mohammedan* lawyers, *property alike alienable and inheritable*; and ſo far is the ſovereign from having any right

right of *property* in the goods or lands of his people, that even eſcheats are never appropriated to his uſe, but fall into a fund for the relief of the poor. SHARIF expreſsly mentions *fields* and *houſes* as inheritable and alienable property: he ſays, that a *houſe*, on which there is a lien, ſhall not be ſold to defray even funeral expenſes; that, if a man dig a well *in his own field*, and another man periſh by falling into it, he incurs no guilt; but, if he had treſpaſſed on *the field of another man*, and had been the *occaſion* of death, he muſt pay the price of blood; that *buildings* and *trees* paſs by a ſale of *land*, though not converſely; and he always expreſſes what we call *property* by an emphatical word implying *dominion*. Such *dominion*, ſays he, may be acquired by the act of *parties*, as in the caſe of *contracts*, or, by the act of *law*, as in the caſe of *deſcents*; and, having obſerved, that *freedom is the civil exiſtence and life of a man*, but *ſlavery, his death and annihilation*, he adds, *becauſe freedom eſtabliſhes his right of property, which chiefly diſtinguiſhes man from other animals and from things inanimate*; ſo that he would have conſidered *ſubjects without property* (which, as he ſays in another place, *compriſes every thing that a man may ſell, or give, or leave for his heirs)* as *mere ſlaves without civil life*: yet SHARIF was beloved and rewarded by the very conqueror, from whom the imperial houſe of *Dehli* boaſted of their deſcent. The *Koràn* allots to certain kindred of the deceaſed ſpecifick ſhares of *what he left*, without a ſyllable in the book, that intimates a ſhade of diſtinction between realty and perſonalty; there is therefore no ſuch diſtinction, for interpreters muſt make none, where the law has not diſtinguiſhed: as to MUHAMMED, he ſays in poſitive words, *that if a man leave either property, or rights, they go to his heirs*; and SHARIF adds, *that an heir ſucceeds to his anceſtor's eſtate with an abſolute right of ownerſhip, right of poſſeſſion, and power of alienation*. Now I am fully perſuaded, that no *Muſelman* prince, in any age or country, would have harboured a thought of controverting theſe authorities. Had the doctrine lately broached been ſuggeſted to the ferocious, but politick

politick and religious, OMAR, he would in his beſt mood have aſked his counſellor ſternly, whether he imagined himſelf wiſer than GOD and his Prophet, and, in one of his paſſionate ſallies, would have ſpurned him as a blaſphemer from his preſence, had he been even his deareſt friend or his ableſt general: the placid and benevolent ALI would have given a harſh rebuke to ſuch an adviſer; and AURANGZI'B himſelf, the bloodieſt of aſſaſſins and the moſt avaricious of men, would not have adopted and proclaimed ſuch an opinion, whatever his courtiers and ſlaves might have ſaid, in their zeal to aggrandize their maſter, to a foreign phyſician and philoſopher, who too haſtily believed them, and aſcribed to ſuch a ſyſtem all the deſolation, of which he had been a witneſs. Conqueſt could have made no difference; for, either the law of the conquering nation was eſtabliſhed in *India*, or that of the conquered was ſuffered to remain: if the firſt, the *Korán* and the *dicta* of MUHAMMED were fountains, too ſacred to be violated, both of publick and private law; if the ſecond, there is an end of the debate; for the old *Hindus* moſt aſſuredly were abſolute proprietors of their land, though they called their ſovereigns Lords of the Earth; as they gave the title of Gods on Earth to their *Bráhmens*, whom they puniſhed, neverthelеſs, for *theft* with all due ſeverity. Should it be urged, that, although an *Indian* prince may have no right, in his *executive* capacity, to the land of his ſubjects, yet, as the ſole *legiſlative* power, he is above control; I anſwer firmly, that *Indian* princes never had, nor pretended to have, an unlimited legiſlative authority, but were always under the control of laws believed to be divine, with which they never claimed any power of diſpenſing.

I am happy in an opportunity of advancing theſe arguments againſt a doctrine, which I think unjuſt, unfounded, and big with ruin; for, in the courſe of nine years, I have ſeen enough of theſe provinces and of their inhabitants, to be convinced, that, if we hope to make our

government a bleſſing to them and a durable benefit to ourſelves, we muſt realize our hope, not by wringing for the preſent the largeſt poſſible revenue from our *Aſiatick* ſubjects, but by taking no more of their wealth than the publick exigencies, and their own ſecurity, may actually require; not by diminiſhing the *intereſt*, which landlords muſt naturally take in *their own ſoil*, but by augmenting it to the utmoſt, and giving them aſſurance, that it will deſcend to their heirs: when their laws of property, which they literally hold *ſacred*, ſhall in practice be ſecured to them; when the land-tax ſhall be ſo moderate, that they cannot have a colourable pretence to rack their tenants, and when they ſhall have a well grounded confidence, that the proportion of it will never be raiſed, except for a time on ſome great emergence, which may endanger all they poſſeſs; when either the performance of every legal contract ſhall be enforced, or a certain and adequate compenſation be given for the breach of it; when no wrong ſhall remain unredreſſed, and when redreſs ſhall be obtained at little expenſe, and with all the ſpeed, that may be conſiſtent with neceſſary deliberation; then will the population and reſources of *Bengal* and *Bahar* continually increaſe, and our nation will have the glory of conferring happineſs on conſiderably more than *twenty-four* millions (which is at leaſt the preſent number) of their native inhabitants, whoſe cheerful induſtry will enrich their benefactors, and whoſe firm attachment will ſecure the permanence of our dominion.

AL

AL SIRÁJIYYAH.

THE

INTRODUCTION.

IN THE NAME OF THE MOST MERCIFUL GOD!

PRAISE *be* to GOD, the Lord of *all* worlds; the praiſe of thoſe who give *Him* thanks! And *His* bleſſing on the beſt of created beings, MUHAMMED, and his excellent family! The Prophet of GOD (on whom be His bleſſing and peace!) ſaid: "Learn the laws of inheritance, and teach them to the people; for they *are* one half of uſeful "knowledge." Our learned in the law (to whom GOD be merciful!) ſay: "There belong to the property of a perſon deceaſed four ſucceſſive "duties *to be performed by the magiſtrate:* firſt, his funeral ceremony "and burial without ſuperfluity of expenſe, yet without deficiency; "next, the diſcharge of his juſt debts from the whole of his remaining "effects; then, the payment of his legacies out of a third of what remains after his debts *are* paid; and, laſtly, the diſtribution of the "reſidue among his ſucceſſors, according to the Divine Book, to the "Traditions, and to the Aſſent of the Learned." They begin with the perſons entitled to ſhares, who are ſuch as have each a ſpecifick ſhare allotted to them in the book of Almighty GOD; then they proceed to the reſiduary heirs by relation, and they are all ſuch as take what remains of the inheritance, after thoſe who are entitled to ſhares; and, if there be only reſiduaries, they take the whole property: next to reſiduaries for ſpecial cauſe, as the maſter of an enfranchiſed ſlave and his

his *male* refiduary heirs; then they return to thofe entitled to fhares according to their refpective rights of confanguinity; then to the more diftant kindred; then to the fucceffor by contract; then to him who was acknowledged as a kinfman through another, fo as not to prove his confanguinity, provided the deceafed perfifted in that acknowledgement even till he died; then to the perfon, to whom the whole property was left by will; and laftly to the publick treafury.

On Impediments to Succeffion.

IMPEDIMENTS to fucceffion *are* four; 1, fervitude, whether it be perfect or imperfect; 2, homicide, whether punifhable by retaliation, or expiable; 3, difference of religion; and, 4, difference of country, either actual, as between an alien enemy and an alien tributary; or qualified, as between a fugitive and a tributary, or between two fugitive enemies from two different ftates: now a ftate differs from another by having different forces and fovereigns, there being no community of protection between them.

On the Doctrine of Shares, and the Perfons entitled to them.

THE *furud'*, or fhares, appointed in the book of Almighty GOD, are fix: a moiety, a quarter, an eighth, two thirds, one third, and a fixth, *fome formed* by doubling, and *fome* by halving. Now thofe entitled to thefe fhares are twelve perfons; four males, who are the father and the true grandfather or other male anceftor, how high foever *in the paternal line*, the brother by the fame mother, and the hufband; and eight

eight females, who are the wife, and the daughter, and the ſon's daughter, or other female deſcendant how low ſoever, the ſiſter by one father and mother, the ſiſter by the father's ſide, and the ſiſter by the mother's ſide, the mother, and the true grandmother, that is, ſhe who is related to the deceaſed without the intervention of a falſe grandfather. (A falſe male anceſtor is, where a female anceſtor intervenes in the line of aſcent.) The father takes in three caſes; 1, an abſolute ſhare, which is a ſixth, and that with the ſon, or ſon's ſon, how low ſoever; 2, a legal ſhare, and a reſiduary portion alſo; and that with a daughter, or a ſon's daughter, how low ſoever in the degree of deſcent; 3, he has a ſimple reſiduary title, on failure of children and ſon's children, or other low deſcendants. The true grandfather has the ſame intereſt with the father, except in four caſes, which we will mention preſently, if it pleaſe GOD; but the grandfather is excluded by the father, *if he be living*; ſince the father is the mean of conſanguinity between the grandfather and the deceaſed. The mother's children alſo take in three caſes: a ſixth is the ſhare of one only; a third, of two, or of more: males and females have an equal diviſion and right; but the mother's children are excluded by children of the deceaſed and by ſon's children, how low ſoever, as well as by the father and the grandfather; as the learned agree. The huſband takes in two caſes; half, on failure of children, and ſon's children, and a fourth, with children or ſon's children, how low ſoever they deſcend.

On Women.

WIVES take in two caſes; a fourth *goes* to one or more on failure of children, and ſon's children, how low ſoever; and an eighth with children or ſon's children, in any degree of deſcent. Daughters begotten by

by the deceaſed take in three caſes: half goes to one only, and two thirds to two or more; and, if there be a ſon, the male has the ſhare of two females, and he makes them reſiduaries. The ſon's daughters are like the daughters begotten by the deceaſed; and they may be in ſix caſes: half goes to one only, and two thirds to two or more, on failure of daughters begotten by the deceaſed; with a ſingle daughter of the deceaſed, they have a ſixth, completing *(with the daughter's half)*, two thirds; but, with two daughters of the deceaſed, they have no ſhare of the inheritance, unleſs there be, in an equal degree with, or in a lower degree than, them, a boy, who makes them reſiduaries. As to the remainder between them, the male has the portion of two females; and all of the ſon's daughters are excluded by the ſon himſelf.

If a man leave three ſon's daughters, ſome of them in lower degrees than others, and three daughters of the ſon of another ſon, ſome of them in lower degrees than others, and three daughters of the ſon's ſon of another ſon, ſome of them in lower degrees than others, as in the following table, this is called the caſe of *taſhbíb*.

FIRST SET.	SECOND SET.	THIRD SET.
Son,	Son,	Son,
|	|	|
Son, Daughter,	Son,	Son,
|	|	|
Son, Daughter,	Son, Daughter,	Son,
|	|	|
Son, Daughter,	Son, Daughter,	Son, Daughter,
	|	|
	Son, Daughter,	Son, Daughter,
		|
		Son, Daughter.

Here

Here the eldeſt of the firſt line has none equal in degree with her; the middle one of the firſt line is equalled in degree by the eldeſt of the ſecond; and the youngeſt of the firſt line is equalled by the middle one of the ſecond, and by the eldeſt of the third line; the youngeſt of the ſecond line is equalled by the middle one of the third line, and the youngeſt of the third ſet has no equal in degree.—When thou haſt comprehended this, then we ſay: the eldeſt of the firſt line has a moiety; the middle one of the firſt line has a ſixth together with her equal in degree to make up two thirds; and thoſe in lower degrees never take any thing, unleſs there be a ſon with them, who makes them reſiduaries, both her who is equal to him in degree, and her who is above him; but who is not entitled to a ſhare: thoſe below him are excluded.

Siſters by the ſame father and mother may be in five caſes: half goes to one alone; two thirds to two or more; and, if there be brothers by the ſame father and mother, the male has the portion of two females; and the females become reſiduaries through him by reaſon of their equality in the degree of relation to the deceaſed; and they take the reſidue, when they are with daughters or with ſon's daughters, by the ſaying of Him, on whom be bleſſing and peace! "Make ſiſters, "with daughters, reſiduaries."

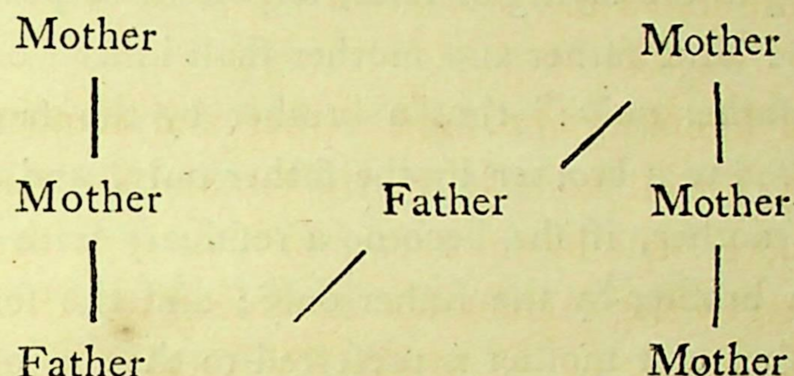
Siſters by the ſame father only are like ſiſters by the ſame father and mother, and may be in ſeven caſes: half goes to one, and two thirds to two or more on failure of ſiſters by the ſame father and mother; and, with one ſiſter by the ſame father and mother, they have a ſixth, as the complement of two thirds; but they have no inheritance with two ſiſters by the ſame father and mother, unleſs there be with them a brother by the ſame father, who makes them reſiduaries; and then the reſidue is *diſtributed* among them *by the ſacred rule* "to "the

"the male what is equal to the ſhare of two females." The ſixth caſe is, where they are reſiduaries with daughters or with ſon's daughters, as we have before ſtated *it*.

Brothers and ſiſters by the ſame father and mother, and by the ſame father only, are all excluded by the ſon and the ſon's ſon, in how low a degree ſoever, and by the father *alſo*, as it is agreed *among the learned*, and even by the grandfather according to ABU HANIFAH, on whom be the mercy of ALMIGHTY GOD! And thoſe of the half-blood are alſo excluded by the brothers of the whole blood.

The mother takes in three caſes: a ſixth with a child, or a ſon's child, even in the loweſt degree, or with two brothers and ſiſters or more, by whichever ſide they are related; and a third of the whole on failure of thoſe juſt-mentioned; and a third of the reſidue after the ſhare of the huſband or wife; and this in two caſes, either when there are the huſband and both parents, or the wife and both parents: if there be a grandfather inſtead of a father, then the mother takes a third of the whole property, though not by the opinion of ABU YUSUF, on whom be GOD's mercy! for he ſays, that in this caſe alſo ſhe has only a third of the reſidue. The grandmother has a ſixth, whether ſhe be by the father or by the mother, whether alone or with more, if they be true grandmothers and equal in degree; but they are all excluded by the mother, and the paternal female anceſtors alſo by the father; and, in like manner, by the grandfather, except the father's mother, even in the higheſt degree; for ſhe takes with the grandfather, ſince ſhe is not *related* through him. The neareſt grandmother, *or female anceſtor*, on either ſide, excludes the more diſtant grandmother, on whichever ſide ſhe be; whether the nearer grandmother be entitled to a ſhare of the inheritance, or be herſelf excluded. When a grandmother has but one relation, as the father's mother's mother, and another has two ſuch relations,

relations, or more, as the mother's mother's mother, who is alſo the father's father's mother, according to this table,



then a ſixth is divided between them, according to ABU YUSUF, in moieties, reſpect being had to their perſons; but, according to MUHAMMED (on whom be GOD's mercy!) in thirds, reſpect being had to the ſides.

On Reſiduaries.

RESIDUARIES by relation *to the deceaſed* are three: the reſiduary in his own right, the reſiduary in another's right, and the reſiduary together with another. Now the reſiduary in his own right is every male, in whoſe line of relation to the deceaſed no female enters; and of this ſort there are four claſſes; the offspring of the deceaſed, and his root; and the offspring of his father and of his neareſt grandfather, a preference being given, I mean a preference in the right of inheritance, according to proximity of degree. The offspring of the deceaſed are his ſons *firſt*; then their ſons, in how low a degree ſoever: then *comes* his root, or his father; then his paternal grandfather, and their paternal grandfathers, how high ſoever; then the offspring of his father, or his brothers; then their ſons, how low ſoever; and then the offspring of his grandfather, or his uncles: then their ſons, how low ſoever. Then the

the ſtrength of conſanguinity prevails: I mean, he, who has two relations is preferable to him, who has only one relation, whether it be male or female, according to the ſaying of Him, on whom be peace! "Surely, "kinſmen by the ſame father and mother ſhall inherit before kinſmen "by the ſame father only:" thus a brother by the ſame father and mother is preferred to a brother by the father only, and a ſiſter by the ſame father and mother, if ſhe become a reſiduary with the daughter, is preferred to a brother by the father only; and the ſon of a brother by the ſame father and mother is preferred to the ſon of a brother by the ſame father only; and the rule is the ſame in regard to the paternal uncles of the deceaſed; and, after them, to the paternal uncles of his father, and, after them, to the paternal uncles of his grandfather.

The reſiduaries in another's right are four females; namely, thoſe whoſe ſhares are half and two thirds, and who become reſiduaries in right of their brothers, as we have before mentioned in their different caſes; but ſhe, who has no ſhare among females, and whoſe brother is the heir, doth not become a reſiduary in his right; as in the caſe of a paternal uncle and a paternal aunt.

As to reſiduaries together with others: ſuch is every female who becomes a reſiduary with another female; as a ſiſter with a daughter, as we have mentioned before. The laſt reſiduary is the maſter of a freedman, and then his reſiduary heirs, in the order before ſtated; according to the ſaying of Him, on whom be bleſſing and peace! "The maſter bears a relation like that of conſanguinity;" but females have nothing among the heirs of a manumittor, according to the ſaying of Him, on whom be bleſſing and peace! "Women have nothing "from their relation to freedmen, except when they have themſelves "manumitted a ſlave; or their freedman has manumitted one, or they "have ſold a manumiſſion to a ſlave, or their vendee has ſold it to his

"ſlave,

" ſlave, or they have promiſed manumiſſion after their death, or their " promiſee has promiſed it after his death, or unleſs their freedman " or freedman's freedman draw a relation *to them*."

If the freedman leave the father and ſon of his manumittor, then a ſixth of the right over the property of the freedman veſts in the father, and the reſidue in the ſon, according to *ABU YUSUF*; but, according to both ABU HANIFAH and MUHAMMED, the whole right veſts in the ſon; and, if a ſon and a grandfather of the manumittor be left, the whole right over the freedman goes to the ſon, as all the learned agree. When a man poſſeſſes as his ſlave a kinſman in a prohibited degree, he manumits him, and his right veſts in him; as if there be three daughters, the youngeſt of whom has twenty *dinàrs*, and the eldeſt, thirty; and they two buy their father for fifty *dinàrs*; and afterwards their father die leaving ſome property; then two thirds of it are divided in thirds among them, as their legal ſhares, and the reſidue goes in fifths to the two who bought their father; three fifths to the eldeſt and two fifths to the youngeſt; which may be ſettled by dividing the whole into forty-five parts.

On Excluſion.

EXCLUSION is of two ſorts: 1. *Imperfect*, or an excluſion from one ſhare, and an admiſſion to another; and this takes place in reſpect of five perſons, the huſband or wife, the mother, the ſon's daughter, and the ſiſter by the ſame father; and an explanation of it has preceded. 2. *Perfect* excluſion: there are two ſets of perſons having a claim to the inheritance: one of which ſets is not excluded entirely in any caſe;

caſe; and they are ſix perſons, the ſon, the father, the huſband, the daughter, the mother, and the wife; but the other ſet inherit in one caſe and in another caſe are excluded. This is grounded on two principles; one of which is, that "whoever is related to the deceaſed "through any perſon, ſhall not inherit, while that perſon is living;" as a ſon's ſon, with the ſon; except the mother's children, for they inherit with her; ſince ſhe has no title to the whole inheritance: the ſecond *principle* is, "that the neareſt *of blood* muſt take," and who the neareſt is, we have explained *in the chapter* on reſiduaries. A perſon incapable of inheriting doth not exclude any one, *at leaſt* in our opinion; but, according to IBNU MASUUD (may GOD be gracious to him!) he excludes imperfectly; as an infidel, a murderer, and a ſlave. A perſon excluded may, as all *the learned* agree, exclude *others*; as, *if there be* two brothers or ſiſters or more, on which ever ſide they are, they do not inherit with the father *of the deceaſed*, yet they drive the mother from a third to a ſixth.

On the Diviſors of Shares.

KNOW, that the ſix ſhares mentioned in the book of Almighty GOD are of two ſorts: of the firſt are a moiety, a fourth, and an eighth; and of the ſecond ſort are two thirds, a third, and a ſixth, as the fractions are halved and doubled. Now, when any of theſe ſhares occur in caſes ſingly, the diviſor for each ſhare is that number which gives it its name (except half, which is from two), as a fourth denominated from four, an eighth from eight, and a third from three: when they occur by two or three, and are of the ſame ſort, then each integral number is the proper diviſor to produce its fraction, and alſo to produce the

the double of that fraction, and the double of that, as ſix produces a ſixth, and likewiſe a third, and two thirds; but, when half, *which is* from the firſt ſort, is mixed with all of the ſecond ſort or with ſome of them, then *the diviſion of the eſtate muſt be* by ſix; when a fourth is mixed with all of the ſecond *ſort* or with ſome of them, then the diviſion muſt be into twelve; and when an eighth is mixed with all of the ſecond ſort, or with ſome of them, then it muſt be into four and twenty parts.

On the Increaſe.

ÂÚL, or *increaſe*, is, when ſome fraction remains above the *regular* diviſor, or when the diviſor is too ſmall to admit one ſhare. Know, that the whole number of diviſors is ſeven, four of which have no increaſe, namely, two, three, four, and eight; and three of them have an increaſe. The *diviſor*, ſix, is, therefore, increaſed by the *âùl* to ten, either by odd, or by even, numbers; twelve is raiſed to ſeventeen by odd, not by even, numbers; and twenty-four is raiſed to twenty-ſeven by one increaſe only; as in the caſe, called *Mimberiyya* (or a caſe anſwered by ALI when he was in the pulpit), which was this, "*A man left* a wife, two daughters, and both his parents." After this there can be no increaſe, except according to IBN MASÛÚD (may GOD be gracious to him!) for, in his opinion, the diviſor twenty-four may be raiſed to thirty-one; as *if a man leave* a wife, his mother, two ſiſters by the ſame parents, two ſiſters by the ſame mother only, and a ſon rendered incapable of inheriting.

On

On the Equality, Proportion, Agreement, and Difference of two Numbers.

THE *temáthul* of two numbers is the equality of one to the other; the *tedákhul* is, when the ſmaller of two numbers exactly meaſures the larger, or exhauſts it; or we call it *tedákhul*, when the larger of two numbers is divided exactly by the ſmaller; or we may define it thus, when the larger exceeds the ſmaller by one number or more equal to it, or equal to the larger; or it is, when the ſmaller is an aliquot part of the larger, as three of nine. The *tawáfuk*, or agreement, of two numbers is, where the ſmaller does not exactly meaſure the larger, but a third number meaſures them both, as eight and twenty, each of which is meaſured by four, and they agree in a fourth; ſince the number meaſuring them is the denominator of a fraction common to both. The *tabáyun* of two numbers is, when no third number whatever meaſures the two diſcordant numbers, as nine and ten. Now the way of knowing the agreement or diſagreement between two different quantities is, that the greater be diminiſhed by the ſmaller quantity on both ſides, once or oftener, until they agree in one point; and if they agree in unit only, there is no numerical agreement between them; but, if they agree in any number, then they are *(ſaid to be) mutawáfik* in a fraction, of which that number is the denominator; if two, in half; if three, in a third; if four, in a quarter; and ſo on, as far as ten; and, above ten, they agree in a fraction; I mean, if the number be eleven, the fraction of eleven, and, if it be fifteen, by the fraction of fifteen. Pay attention to this *rule*.

On

On Arrangement.

In arranging cafes there is need of feven principles ; three, between the fhares and the perfons, and four between perfons and perfons. Of the three *principles* the firft is, that, if the portions of all the claffes be divided among them without a fraction, there is no need of multiplication, as *if a man leave* both parents and two daughters. The fecond is, that, if the portions of one clafs be fractional, yet there be an agreement between their portions and their perfons, then the meafure of the number of perfons, whofe fhares are broken, muft be multiplied by the root of the cafe, and its increafe, if it be an increafed cafe, as *if a man leave* both parents and ten daughters, or *a woman leave* a hufband, both parents, and fix daughters. The third *principle* is, that, if their portions leave a fraction, and there be no agreement between thofe portions and the perfons, then the whole number of the perfons, whofe fhares are broken, muft be multiplied into the root of the cafe, as *if a woman leave* her hufband and five fifters by the fame father and mother. Of the four *other principles* the firft is, that, when there is a fractional divifion between two claffes or more, but an equality between the numbers of the perfons, then the rule is, that one of the numbers be multiplied into the root of the cafe ; as if *there be* fix daughters, and three grandmothers, and three paternal uncles. The fecond is, when fome of the numbers equally meafure the others ; then the rule is, that the greater number be multiplied into the root of the cafe ; as, *if a man leave* four wives and three grandmothers and twelve paternal uncles. The third is, when fome of the numbers are *mutawâfik*, or compofit, with others ; then the rule is, that the meafure of the firft of the numbers be multiplied into the whole of the fecond, and the product into the meafure of the third, if the product of the third be *mutawâfik*, or, if not, into the whole of the third, and then into the fourth, and fo on, in the

ſame manner; after which the product muſt be multiplied into the root of the caſe: as, *if a man leave* four wives, eighteen daughters, fifteen female anceſtors, and ſix paternal uncles. The fourth *principle* is, when the numbers are *mutabáyan*, or not agreeing one with another; and then the rule is, that the firſt of the numbers be multiplied into the whole of the ſecond, and the product multiplied by the whole of the third, and that product into the whole of the fourth, and the laſt product into the root of the caſe; as, *if a man leave* two wives, ſix female anceſtors, ten daughters, and ſeven paternal uncles.

Section.

WHEN thou deſireſt to know the ſhare of each claſs by arrangement, multiply what each claſs has from the root of the caſe by what thou haſt already multiplied into the root of the caſe, and the product is the ſhare of that claſs; and, if thou deſireſt to know the ſhare of each individual in that claſs by arrangement, divide what each claſs has from the principle of the caſe by the number of the perſons in it, then multiply the quotient into the multiplicand, and the product *will be* the ſhare of each individual in that claſs. Another method is, to divide the multiplied number by whichever claſs thou thinkeſt proper, then to multiply the quotient into the ſhare of that ſet, by which thou haſt divided the multiplied number, and the product *will be* the ſhare of each individual in that ſet. Another method is by the way of proportion, which is the cleareſt; and it is, that a proportion be aſcertained for the ſhare of each claſs from the root of the caſe to the number of perſons one by one, and that, according to ſuch proportion from the multiplied *number*, a ſhare be given to each individual of that claſs.

On

On the Division of the Property left among Heirs and among Creditors.

If there be a disagreement between the property left and the *number arising from the* arrangement, then multiply the portion of each heir, according to that arrangement, into the aggregate of the property, and divide the product by the number of the arrangement, but, when there is an agreement between the arrangement and the property left, then multiply the portion of each heir, according to the arrangement into the measure of the property, and divide the product by the measure of the *number arising from the* arrangement: the quotient is the portion of that heir in both methods. This *rule* is in order to know the portion of each individual among the heirs; but, in order to know the portion of each class of them, multiply what each class has, according to the root of the case, into the measure of the property left, then divide the product by the measure of the case, if there be an agreement between the property left and the case; but, if there be a disagreement between them, then multiply into the whole of the property left, and divide the product by the whole *number arising from the* verification of the case; and the quotient *will be* the portion of that class in both methods. Now, as to the payment of debts, the debts of all the creditors stand in the place of the arranging number.

On Subtraction.

When any one agrees to take a part of the property left, subtract his share from *the number arising* by the proof, and divide the remainder of the property by the portions of those who remain; as *if a woman leave* her

her husband, her mother, and a paternal uncle: now *suppose that* the husband agrees to take what was in his power of his bridal gift to the wife; this is deducted from among *the heirs:* then what remains is divided between the mother and the uncle in thirds, according to their legal shares; and thus there will be two parts for the mother, and one for the uncle.



On the Return.

THE return is the converse of the increase; and it *takes place* in what remains above the shares of those entitled to them, when there is no legal claimant of it: this *surplus* is returned to the sharers according to their rights, except the husband or the wife; and this is the opinion of all the *Prophet*'s companions, as ÂLI and his followers, may GOD be gracious to them! And our masters (to whom GOD be merciful!) have assented to it: ZAID, the son of THÁBIT says, that the surplus doth not revert, but *goes* to the publick treasury; and to this opinion have assented ÛRWAH and ALZUHRÍ and MÁLIC and ALSHÁFIÎ, may GOD be merciful to them!

Now the cases on this head are *in* four divisions: the first of them *is,* when there is in the case but one sort of kinsmen, to whom a return must be made, and none of those who are not entitled to a return: then settle the case according to the number of persons; as, when the deceased has left two daughters, or two sisters, or two female ancestors; settle it, therefore, by two. The second *is,* when there are joined in the case two or three sorts of those, to whom a return must be made, without any of those, to whom there is no return: then settle the case according to their shares; I mean by two, if there be two

two ſixths in the caſe; or by three, when there are a third and a ſixth in it; or by four, when there are a moiety and a ſixth in it; or by five, when there are in it two thirds and a ſixth, or half and two ſixths, or half and a third. The third *is*, when in the firſt caſe, there is *any one* to whom no return can be made: then give the ſhare of him or her, to whom there is no return, according to the loweſt *denominator*, and if the reſidue exactly quadrate with the number of perſons, who are entitled to a return, *it is* well; as *if there be* a huſband and three daughters; but, if they do not agree, then multiply the meaſure *of the number* of the perſons, if there be an agreement between the number of perſons and the reſidue, into the denominator of the ſhares of thoſe, to whom no return is to be made: as *if there be* a huſband, and ſix daughters; if not, multiply the whole number of the perſons into the denominator of the ſhare of thoſe, to whom there is no return; and the product will ſet the caſe right. The fourth is, when, in the ſecond caſe, there are any to whom no return is made: then divide what remains from the denominator of the ſhare of him or them, who have no return, by the caſe of thoſe, to whom a return muſt be made, and, if the remainder quadrate, *it is well*; and this *is* in one form; that is, when a fourth *goes* to the wives, and the reſidue is *diſtributed* in thirds among thoſe entitled to a return; as *if there be* a wife, and a grand-mother, and two ſiſters by the mother's ſide: but, if it do not quadrate, then multiply the whole caſe of thoſe, who are entitled to a return, into the denominator of the ſhare of him or her, who is not entitled to it; and the product will be the denominator of the ſhares of both claſſes; as *if there be* four wives, and nine daughters, and ſix female anceſtors: then multiply the ſhares of thoſe, to whom no return muſt be made, into the caſe of thoſe, who are entitled to a return, and the ſhares of thoſe, to whom a return is to be made, into what remains of the denominator of the ſhare of thoſe, who are not entitled to a return. If there be a fraction in ſome, adjuſt the caſe by the before-mentioned principles.

On

On the Division of the Paternal Grandfather.

ABUBECR the Just (on whom be the grace of GOD!) and those, who followed him, among the companions *of the Prophet*, say, "the "brethren of the whole blood and the brethren by the father's side "inherit not with the grandfather:" this is also the decision of ABU HANÍFA (on whom be GOD's mercy!) and judgments are given conformably to it. ZAID the son of THÁBIT, indeed, asserts, that they *do* inherit with the grandfather, and of this opinion are both *ABU YUSUF and MUHAMMED*, as well as MÁLIC and ALSHAFIÎ. According to ZAID, the son of THÁBIT (on whom be GOD's mercy!) the grandfather, with brothers or sisters of the whole blood and by the father's side, takes the best in two cases, from the *mukásamah*, or *division*, and from a third of the whole estate. The meaning of *mukásamah* is, that the grandfather is placed in the division as one of the brethren, and the brethren of the half blood enter into the division with those of the whole blood, to the prejudice of the grandfather; but, when the grandfather has received his allotment, then the half blood are removed from the rest, *as if* disinherited, and receive nothing; and the residue goes to the brethren of the whole blood; except when, among those of the whole blood there is a single sister, who receives her legal share, I mean the whole after the grandfather's allotment: then, if any thing remains, *it goes* to the half blood; if not, they have nothing; and this *is the case*, when *a man leaves* a grandfather, a sister by the same father and mother, and two sisters by the same father only: *in this case* there remains to those sisters a tenth of the estate, and the correct denominator *is* twenty; but, if there be, in the preceding case, one sister by the same father only, nothing remains for her; and if one, entitled to a legal share, be mixed with them, then, after he has received his share, the grandfather has the best in three arrangements; either

either the divifion, when *a woman leaves* her hufband, a grandfather, and a brother ; or a third of the refidue *is given*, when a man leaves a grandfather, a grandmother, and two brothers, and a fifter by the fame father and mother. Or a fixth of the whole eftate *is given*, when a man leaves a grandfather and a grandmother, a daughter, and two brothers ; and, when a third of the refidue is better from the grandfather, and the refidue has not a complete third, multiply the denominator of the third into the root of the cafe. If a woman leave a grandfather, her hufband, a daughter, her mother, and a fifter by the fame father and mother, or by the fame father only, then a fixth is beft for the grandfather, and the *root of the* cafe is raifed to thirteen, and the fifter has nothing. Know, that ZAID, the fon of THABIT (on whom be GOD's grace !) has not placed the fifter by the fame father and mother, or by the fame father, as entitled to a fhare with the grandfather, except in the cafe, named *acdarìyyah*, and that is, the hufband, the mother, a grandfather, and a fifter by the fame father and mother, or by the fame father only ; *in which cafe* the hufband *ought to have* a moiety ; the mother, a third ; the grandfather, a fixth ; and the fifter, a moiety ; then the grandfather annexes his fhare to that of the fifter, and, a divifion is made between them *by the rule* " a male has the portion of two females ;" *and this is*, becaufe the divifion is beft for the grandfather. The root is *regularly* fix, but is increafed to nine ; and a correct diftribution is made by twenty-feven. The cafe is called *acdarìyyah*, becaufe it occurred on *the death of* a woman belonging to the tribe of ACDAR. If, inftead of the fifter, there be a brother or two fifters, there is no increafe, nor *is that cafe* an *acdarìyyah*.

On

On Succeſſion to Veſted Intereſts.

If ſome of the ſhares become veſted inheritances before the diſtribution, as *if a woman leave* her huſband, a daughter, and her mother, and the huſband die, before the eſtate can be diſtributed, leaving a wife and both his parents, *if* then the daughter die leaving two ſons, a daughter, and a *maternal* grandmother, and then the grandmother die leaving her huſband and two brothers, the principle in this *event* is, that the caſe of the firſt deceaſed be arranged, and that the allotment of each heir be *conſidered* as delivered according to that arrangement; that, next, the caſe of the ſecond deceaſed be arranged, and that a compariſon be made between what was in his hands, *or veſted in intereſt*, from the firſt arrangement, and between the ſecond arrangement, in three ſituations; and if, on account of equality, what *is* in his hands from the firſt arrangement quadrate with the ſecond arrangement, then there is no need of multiplication; but, if it be not right, then ſee whether there be an agreement between the two, and multiply the meaſure of the ſecond arrangement into the whole of the firſt arrangement; and, if there be a diſagreement between them, then multiply the whole of the ſecond arrangement into the whole of the firſt arrangement, and the product *will be* the denominator of both caſes. The allotments of the heirs of the firſt deceaſed muſt be multiplied into the former multiplicand, I mean into the ſecond arrangement or into its meaſure; and the allotments of the heirs of the ſecond deceaſed muſt be multiplied into the whole of what *was* in his hands, or into its meaſure; and, if a third or a fourth die, put the ſecond product in the place of the firſt arrangement, and the third caſe in the place of the ſecond, in working; *and* thus in *the caſe of* a fourth and a fifth, and ſo on to infinity.

On

On Diſtant Kindred.

A DISTANT kinſman *is* every relation, who is neither a ſharer nor a reſiduary. The generality of the *Prophet*'s companions repeat a tradition concerning the inheritance of diſtant kinſmen; and, according to this, our maſters and their followers (may GOD be merciful to them!) have decided; but ZAID, the ſon of THABIT (on whom be GOD's grace!) ſays: "there is no inheritance for the diſtant kindred, "but the property *undiſpoſed of* is placed in the publick treaſury;" and with him agree MÁLIC and ALSHAFIÎ, on whom be GOD's mercy! Now theſe diſtant kindred *are* of four claſſes: the firſt claſs is deſcended from the deceaſed; and they are the daughters' children, and the children of the ſon's daughters. The ſecond ſort *are* they, from whom the deceaſed deſcend; and they are the excluded grandfathers and the excluded grandmothers. The third ſort are deſcended from the parents of the deceaſed; and they *are* the ſiſters' children and the brothers' daughters, and the ſons of brothers by the ſame mother only. The fourth ſort are deſcended from the two grandfathers and two grandmothers of the deceaſed; and they are, paternal aunts, and uncles by the ſame mother *only*, and maternal uncles and aunts. Theſe, and all who are related to the deceaſed through them, are among the diſtant kindred. ABÚ SULAIMÁN reports from MUHAMMED the ſon of ALHASAN, *who reported* from ABU HANÍFAH (on whom be GOD's mercy!) that the ſecond ſort are the neareſt of the *four* ſorts, how high ſoever they aſcend; then the firſt, how low ſoever they deſcend; then the third, how low ſoever; and laſtly, the fourth, how diſtant ſoever *their degree:* but ABU YÚSUF and ALHASAN the ſon of ZIYAD, report from ABU HANÍFAH (on whom be the mercy of GOD!) that the neareſt of the *four* ſorts is the firſt, then the ſecond, then the third, then the fourth, like the order of the reſiduaries; and this *is* taken

taken *as a rule* for decifion. According to both *ABU YUSUF and MUHAMMED*, the third fort has a preference over the maternal grandfather.

On the Firft Clafs.

THE beft entitled of them to the fucceffion is the neareft of them in degree to the deceafed; as the daughter's daughter, who is preferred to the daughter of the fon's daughter; and, if *the claimants* are equal in degree, then the child of an heir is preferred to the child of a diftant relation; as the daughter of a fon's daughter is preferred to the fon of a daughter's daughter; but, if their degrees be equal, and there be not among them the child of an heir, or, if all of them be the children of heirs, then, according to ABU YUSUF (may GOD be merciful to him!) and ALHASAN, fon of ZIYAD, the perfons of the branches are confidered, and the property is diftributed among them equally, whether the condition of the roots, as male or female, agree or difagree; but MUHAMMED (on whom be GOD's mercy!) confiders the perfons of the branches, if the fex of the roots agree, *in which refpect* he concurs with the other two; and he confiders the perfons of the roots, if their fexes be different, and, he gives to the branches the inheritance of the roots, in oppofition to the two *lawyers*. For inftance, when *a man* leaves a daughter's fon, and a daughter's daughter, *then*, according to ABU YUSUF and ALHASAN, the property is diftributed between them, *by the rule* "the male has the portion of two "females," their perfons being confidered; and, according to MUHAMMED, in the fame manner; becaufe the fexes of the roots agree: and, if *a man* leave the daughter of a daughter's fon, and the fon of a daughter's

daughter's daughter, *then*, according to the two *firſt mentioned lawyers*, the property *is divided* in thirds between the branches, by conſidering the perſons, two thirds of it *being given* to the male, and one third to the female; but, according to MUHAMMED (on whom be GOD's mercy!) the property *is divided* between the roots, I mean *thoſe* in the ſecond rank, in thirds, two thirds *going* to the daughter of the daughter's ſon, *namely*, the allotment of her father, and one third of it to the ſon of the daughter's daughter, *namely*, the ſhare of his mother. Thus, according to MUHAMMED (to whom GOD be merciful!) when the children of the daughters are different *in ſex*, the property is divided according to the firſt rank *that* differs among the roots; then the males are arranged in one claſs, and the females in another claſs, after the diviſion, and what goes to the males is collected and diſtributed according to the higheſt difference, that occurs among their children, and, in the ſame manner, what goes to the females; and thus the operation is continued to the end according to this ſcheme:

S	S	S	D	D	D	D	D	D	D	D	D
D	D	D	D	D	D	D	D	D	D	D	D
S	D	D	S	S	S	D	D	D	D	D	D
D	D	D	S	D	D	S	S	S	D	D	D
D	S	D	D	D	D	S	D	D	S	D	D
D	D	D	D	D	S	D	D	S	D	S	D

Thus MUHAMMED (to whom GOD be merciful!) takes the ſex from the root at the time of the diſtribution, and the number from the branches; as, *if a man* leave two ſons of a daughter's daughter's daughter, and a daughter of a daughter's daughter's ſon, and two daughters of a daughter's ſon's daughter, in this form:

The

The Deceaſed,

Daughter	Daughter	Daughter
Son	Daughter	Daughter
Daughter	Son	Daughter
Two Daughters	Daughter	Two Sons.

In this caſe according to ABU YUSUF (on whom be GOD's mercy!) the property is divided among the branches in ſeven parts, by conſidering their perſons; but, according to MUHAMMED (to whom GOD be merciful!) the property is diſtributed according to the higheſt difference *of ſex*, I mean in the ſecond rank, in ſevenths, by the number of branches in the roots; and, according to him, four ſevenths of it *go* to the daughters of the daughter's ſon's daughter; ſince that is the ſhare of their grandfather, and three ſevenths of it, which are the allotment of the two daughters, are divided between their two children, I mean thoſe in the third rank, in moieties; one moiety to the daughter of the daughter's daughter's ſon, *which* is the ſhare of her father, and the other moiety to the two ſons of the daughter's daughter's daughter, *being* the ſhare of their mother: the correct diviſor of the property is, in this caſe, twenty-eight. The opinion of MUHAMMED (on whom be GOD's mercy!) is the more generally received of the two traditions from ABU HANIFAH (to whom GOD be merciful!) in all deciſions concerning the diſtant kindred; and this was the firſt opinion of ABU YUSUF; then he departed *from it*, and ſaid that the roots were by no means to be conſidered.

A Section.

Our learned *lawyers* (on whom be the mercy of GOD !) conſider the *different* ſides in ſucceſſion ; except that ABU YUSUF (may GOD be merciful to him !) conſiders the ſides in the perſons of the branches, and MUHAMMED (on whom be GOD's mercy !) conſiders the ſides in the roots ; as, when *a man* leaves two daughters of a daughter's daughter, who *are* alſo the two daughters of a daughter's ſon, and the ſon of a daughter's daughter, according to this ſcheme :

The Deceaſed.

Daughter	Daughter	Daughter
|	|	|
Daughter	Son ————————	Daughter
|	|	
Son	Two Daughters.	

In this caſe, according to ABU YUSUF, the property *is divided* among them in thirds, and then the deceaſed is conſidered as if he had left four daughters and a ſon ; two thirds of it, therefore, go to the two daughters, and one third to the ſon : but, according to MUHAMMED (to whom GOD be merciful !) the eſtate *is divided* among them in twenty-eight parts, to the two daughters twenty-two ſhares (ſixteen in right of their father and ſix ſhares in right of their mother) and to the ſon ſix ſhares in right of his mother.

On the Second Claſs.

He among them, who is preferred in the ſucceſſion, is the neareſt of them to the deceaſed, on which ſide ſoever he ſtands ; and, in the caſe

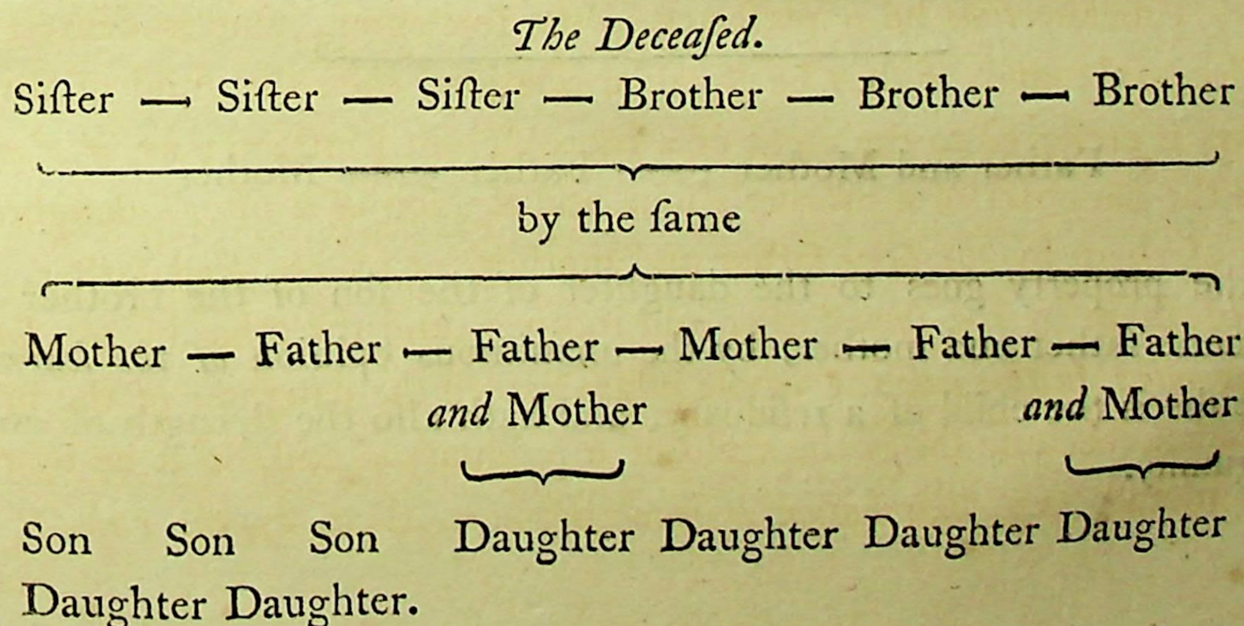
caſe of equality in the degrees of proximity, then he, who is related to the deceaſed through an heir, is preferred by the opinion of ABU SUHAIL, *ſurnamed* ALFERÁIDI, of ABU FUDAIL ALKHASSÁF, and of ALI, the ſon of ISAI ALBASRI; but, no preference *is given* to him according to ABU SULAIMAN ALJURJÁNI, and ABU ALI AL BAIHATHI ALBUSTI. If their degrees be equal, and there be none among them, who is related through an heir, or, if all of them be related through an heir, then, if the ſex of thoſe, through whom they are related, agree, and their relation be on the ſame ſide, the diſtribution is according to their perſons, but if the ſex of thoſe, to whom they are related, be different, the property is diſtributed according to the firſt rank that differs in ſex, as in the firſt claſs; and, if their relation differ, then two thirds *go* to thoſe on the father's ſide, that *being* the ſhare of the father, and one third *goes* to thoſe on the mother's ſide, that *being* the ſhare of the mother: then what has been allotted to each ſet is diſtributed among them, as if their relation were the ſame.

On the Third Claſs.

THE rule concerning them is the ſame with that concerning the firſt claſs; I mean, *that* he *is* preferred in the ſucceſſion, who is neareſt to the deceaſed: and, if they be equal in relation, then the child of a reſiduary *is* preferred to the child of a more diſtant kinſman; as, *if a man leave* the daughter of a brother's ſon, and the ſon of a ſiſter's daughter, both of them by *the ſame* father and mother, or by *the ſame* father, or one of them by *the ſame* father and mother, and the other by *the ſame* father *only: in this caſe* the whole eſtate *goes* to the daughter of the brother's ſon, becauſe ſhe is the child of a reſiduary; and, if it be by *the ſame* mother *only*, *diſtribution is made* between them *by the rule*, "A

"male

"male has the ſhare of two females," *and*, by the opinion of ABU YUSUF (to whom GOD be merciful!) in thirds, according to the perſons, but, by that of MUHAMMED (may GOD be merciful to him!) in moieties according to the roots; and, if they be equal in proximity, and there be no child of a reſiduary among them, or *if* all of them be children of reſiduaries, or if ſome of them be children of reſiduaries, and ſome of them children of thoſe entitled to ſhares, and their relation differ, then ABU YUSUF (to whom GOD be merciful!) conſiders the ſtrongeſt *in conſanguinity*; but MUHAMMED (may GOD be merciful to him!) divides the property among the brothers and ſiſters in moieties, conſidering as well the number of the branches, as the ſides in the roots; and what has been allotted to each ſet is diſtributed among their branches, as in the firſt claſs: thus, *if a man leave* the daughter of the daughter of a ſiſter by *the ſame* father and mother, ſhe is preferred to the ſon of the daughter of a brother by the ſame father *only*, according to ABU YUSUF (to whom GOD be merciful!) by reaſon of the ſtrength of relation; but, according to MUHAMMED (may GOD be merciful to him!) the property is divided between them both in moieties by conſideration of the roots. So, when *a man* leaves three daughters of different brothers, and three ſons and three daughters of different ſiſters, *as* in this figure:



In

In this caſe, according to ABU YÚSUF, the property is divided among the branches of the whole blood, then among the branches by the ſame father, then among the branches by the ſame mother, *according to the rule* "the male has the allotment of two females," in fourths, by conſidering the perſons; but, according to MUHAMMED (to whom GOD be merciful!) a third of the eſtate is divided equally among the branches by the ſame mother, in thirds, by conſidering the equality of their roots in the diviſion of the parents, and the remainder among the branches of the whole blood in moieties, by conſidering in the roots the number of the branches; one half to the daughter of the brother, the portion of the father, and the other between the children of the ſiſter, the male having the allotment of two females, by conſidering the perſons; and *the eſtate* is correctly divided by nine. If *a man* leave three daughters of different brothers' ſons, in this manner:

The Deceaſed.

Daughter —— Daughter —— Daughter

of a Son of a Brother by the ſame

Father and Mother —— Father —— Mother

all the property goes to the daughter of the ſon of the brother by the ſame father and mother, by the unanimous opinion *of the learned*, ſince ſhe is the child of a reſiduary, and hath alſo the ſtrength of conſanguinity.

On

On the Fourth Clafs.

THE rule as to them *is*, that, when there is only one of them, he has a right to the whole property, fince there is none to obftruct him; and, when there are feveral, and the fides of their relation are the fame, as paternal aunts and paternal uncles by the fame mother *with the father*, or maternal uncles and aunts, then the ftronger of them in confanguinity is preferred, by the general affent; I mean, they, who are *related* by father and mother, are preferred to thofe, who are *related* by the father *only*, and they, who are *related* by the father, are preferred to thofe, who are *related* by the mother only, whether they be males or females; and, if there be males and females and their relation be equal, then the male has the allotment of two females; as, *if there be* a paternal uncle and aunt both by *one* mother, or a maternal uncle and aunt, both by the fame father and mother, or by the fame father, or by the fame mother only: and if the fides of their confanguinity be different, then no regard *is fhown* to the ftrength of relation; as, if *there be* a paternal aunt by the fame father and mother, and a maternal aunt by the fame mother, or a maternal aunt by the fame father and mother, and a paternal aunt by the fame mother only, then two thirds *go* to the kindred of the father, for they *are* the father's allotment, and one third to the kindred of the mother, for that *is* the mother's allotment; then what is allotted to each fet is divided among them, as if the place of their confanguinity were the fame.

On their Children, and the Rules concerning them.

THE rule as to them *is* like the rule concerning the firft clafs; I mean, *that* the beft entitled of them to the fucceffion is the neareft of them

them to the deceaſed on whichever ſide he is *related*; and, if they be equal in relation, and the place of their conſanguinity be the ſame, then he, who has the ſtrength of blood, is preferred, by the general aſſent; and, if they be equal in degree and in blood, and the place of their conſanguinity be the ſame, then the child of a reſiduary *is* preferred to whoever is not *ſuch*; as, *if a man leave* the daughter of a paternal uncle, and the ſon of a paternal aunt, both of them by *the ſame* father and mother, or by *the ſame* father, all the property goes to the daughter of the paternal uncle; and, if one of them be by *the ſame* father and mother, and the other by the ſame father only, *then* all the eſtate goes to the claimant, who has the ſtrength of conſanguinity, according to the clearer tradition; *and this* by analogy to the maternal aunt by the ſame father, for though ſhe be the child of a diſtant kinſman, yet ſhe is preferred, by the ſtrength of conſanguinity, to the maternal aunt by the *ſame* mother *only*, though ſhe be the child of an heir; ſince the weight which prevails by itſelf, that is, the ſtrength of conſanguinity, is greater than the weight by another, which is the deſcent from an heir. Some of them (the learned) ſay, *that* the whole eſtate goes to the daughter of the paternal uncle by the ſame father, ſince ſhe is the daughter of a reſiduary; and, if they be equal in degree, yet the place of their relation differ, they have no regard *ſhown* to the ſtrength of conſanguinity, nor to the deſcent from a reſiduary, according to the clearer tradition; by analogy to the paternal aunt by the ſame father and mother, for though ſhe have two bloods, and be the child of an heir on both ſides, and her mother be entitled to a legal ſhare, *yet* ſhe is not preferred to the maternal aunt by the *ſame* father; but two thirds *go* to whoever is related by the father; and their regard is ſhown to the ſtrength of blood; then to the deſcent from a reſiduary; and one third *goes* to whoever is related by the mother, and there *too* regard is ſhown to ſtrength of conſanguinity: then, according to ABU YÚSUF (may GOD be merciful to him!) what belongs to each ſet is divided among the

the persons of their branches, with attention to the number of sides in the branches; and, according to MUHAMMED (may GOD be merciful to him!) the property is distributed by the first line, *that* differs, with attention to the number of the branches and of the sides in the roots, as in the first class; then this rule is applied to the sides of the paternal uncles of his parents and their maternal uncles; then to their children; then to the side of the paternal uncles of the parents of his parents, and to their maternal uncles; *then to their children,* as in the *case of* residuaries.

On Hermaphrodites.

To the hermaphrodite, *whose sex is quite* doubtful, *is allotted* the smaller of two shares, I mean the worse of two conditions, according to ABU HANÍFAH (may GOD be merciful to him!) and his friends, and this is the doctrine of the generality of the *Prophet*'s companions (may GOD be gracious to them!) and conformable to it are decisions *given;* as, when *a man* leaves a son, and a daughter, and an hermaphrodite, then the hermaphrodite has the share of a daughter, since that is ascertained: and according to ÂÁMIR ALSHÂBI (and this is the opinion of IBNU ÂBBÁS, may GOD be gracious to them both!) the hermaphrodite has a moiety of the two shares in the controversy; but *the two great lawyers* differ in putting in practice the doctrine of ALSHÂBI: *for* ABU YÚSUF says, *that* the son has one share, and the daughter half a share, and the hermaphrodite three fourths of a share, since the hermaphrodite would be entitled to a share, if he were a male, and to half a share, if he were a female, and this *is* settled by *his* taking

taking half the ſum of the two portions; or, we may ſay, he takes the moiety which is aſcertained, together with half the moiety which is diſputed, ſo that there come to him three fourths of a ſhare; for he (ABU YÚSUF) pays attention to the legal ſhare and to the increaſe, and he verifies *the caſe* by nine: or, we may ſay, the ſon has two ſhares, and the daughter one ſhare, and the hermaphrodite a moiety of the two allotments, and that *is* a ſhare and half a ſhare. But MUHAMMED (may GOD be merciful to him!) ſays, that the hermaphrodite would take two fifths of the eſtate, if he were a male, and a fourth of the eſtate, if he were a female, and that he takes a moiety of the two allotments, and that *will give him* one fifth and an eighth by attention to both ſexes; and the caſe is rectified by forty; ſince that is the product of one of the *numbers in the* two caſes, which is four, multiplied into the other, which is five, and that product multiplied by two *(which is the number of the)* caſes; and then he, who takes any thing by five, *has it* multiplied into four, and he, who takes any thing by four, *has it* multiplied into five; ſo that thirteen ſhares *go* to the hermaphrodite, and eighteen to the ſon, and nine to the daughter.

On Pregnancy.

THE longeſt time of pregnancy *is* two years, according to ABU HANÍFAH (may GOD be merciful to him!) and his companions; and according to LAITH, the ſon of SÂD ALFAHMÍ (may GOD be merciful to him!) three years; and, according to ALSHÁFIÎ (may GOD be merciful to him!) four years: but according to ALZUHRI (may GOD be merciful to him!) ſeven years: and the ſhorteſt time for it is ſix months. There is reſerved for the child in the womb, according

cording to ABU HANÍFAH (may GOD be merciful to him!) the portion of four ſons, or the portion of four daughters, whichever of the two is moſt; and there is given to the reſt of the heirs the ſmalleſt of the portions; but, according to MUHAMMED (may GOD be merciful to him!) there is reſerved the portion of three ſons or of three daughters, whichever of the two is moſt: LAITH, ſon of SÂD (may GOD be gracious to him!) reports this *opinion* from him; but, by another report, *there is reſerved* the portion of two ſons; and one of the two opinions is that of ABU YÚSUF (may GOD be merciful to him!) as HISHÁM reports it from him; but ALKHAṠṠÁF reports from ABU YÚSUF (may GOD be merciful to him!) that there ſhould be reſerved the ſhare of one ſon or of one daughter; and, according to this, deciſions *are made*; and ſecurity muſt be taken, according to his opinion. And, if the pregnancy was by the deceaſed, and *the widow* produce a child at the full *time* of the longeſt period *allowed* for pregnancy, or within it, and the woman hath not confeſſed her having broken her legal term *of abſtinence, that child* ſhall inherit, and others may inherit from him; but, if ſhe produce a child after the longeſt *time* of geſtation, he ſhall not inherit, nor ſhall others inherit from him: and if the pregnancy was from another man than the deceaſed, and ſhe, *the kinſwoman*, produce a child in ſix months or leſs, he ſhall inherit; but, if ſhe produce the child after the leaſt period of geſtation, he ſhall not inherit.

Now the way of knowing the life of the child at the time of its birth, is, that there be found in him that, by which life is proved; as a voice, or ſneezing, or weeping, or ſmiling, or moving a limb; and, if the ſmalleſt *part* of the child come out, and he then die, he ſhall not inherit; but if the greater *part* of him come out, and then he die, he ſhall inherit: and, if he come out ſtraight *(or with his head firſt)* then his breaſt is conſidered; I mean, if his whole breaſt come out, he ſhall inherit;

inherit; but if he come out inverted *(or with his feet firſt)* then his navel is conſidered.

The chief rule in arranging caſes on pregnancy is, that the caſe be arranged by two ſuppoſitions, I mean by ſuppoſing, that the child in the womb is a male, and by ſuppoſing, that it is a female: then, compare the arrangement of both caſes; and, if the numbers agree, multiply the meaſure of one of the two into the whole of the other; and, if they diſagree, then multiply the whole of one of the two into the whole of the other, and the product will be the arranger of the caſe: then multiply the allotment of him, who would have ſomething from the caſe, which ſuppoſes a male, into that of the caſe, which ſuppoſes a female, or into its meaſure; and then that of him, who takes on the ſuppoſition of a female, into the caſe of the male, or into its meaſure, as we have directed concerning the hermaphrodite; then examine the two products of that multiplication; and whether of the two is the leſs, that ſhall be given to ſuch an heir; and the difference between them muſt be reſerved from the allotment of that heir; and, when the child appears, if he be entitled to the whole of what has been reſerved, it is well; but, if he be entitled to a part, let him take that part, and let the remainder be diſtributed among the *other* heirs, and let there be given to each of thoſe heirs what was reſerved from his allotment: as, when a man has left a daughter and both his parents, and a wife pregnant, then the caſe *is rectified* by twenty-four on the ſuppoſition, that the child in the womb is a male, and by twenty-ſeven on the ſuppoſition, that it is a female: now between the two numbers of the arrangement there is an agreement in a third; and, when the meaſure of one of the two is multiplied into the whole of the other, the product amounts to two hundred and ſixteen, and by that *number* is the caſe verified; and, on the ſuppoſition of its male ſex, the wife takes twenty-ſeven ſhares, and each of

of the two parents, thirty-fix; but, on the fuppofition of its female fex, the wife has twenty-four, and each of the parents, thirty-two; and twenty-four are given to the wife, and three fhares from her allotment are referved; and from the allotment of each of the parents are referved four fhares; and thirteen fhares are given to the daughter; fince the *part* referved in her right *is* the allotment of four fons, according to ABU HANI'FAH (may GOD be merciful to him!) and when the fons are four, then her allotment is one fhare and four ninths of a fhare out of four-and-twenty multiplied into nine, and that makes thirteen fhares; and this *belongs* to her, and the refidue *is* referved, which *amounts to* an hundred and fifteen fhares. If the widow bring forth one daughter or more, then all the *part* referved *goes* to the daughters; and, if fhe bring forth one fon or more, then muft be given to the widow and both parents what was referved from their fhares; and what remains muft be divided among the children: and, if fhe bring forth a dead child, then muft be given to the widow and both parents what was referved from their fhares, and to the daughter a complete moiety, that is, ninety-five fhares *more*, and the remainder, which is nine fhares, to the father, fince he *is* the refiduary.

On a Loft Perfon.

A LOST perfon is *confidered as* living in *regard to* his eftate; fo that no one can inherit from him; and his eftate is referved, until his death can be afcertained; or the term for *a prefumption of it* has paffed over: now the traditionary opinions differ concerning that term; for, by the clearer tradition, "when, not one of his equals in age remains, judge-"ment may be given of his death;" but HASAN, the fon of ZIYÁD, reports

reports from ABU HANÍFAH (may GOD be merciful to him!) that the term is an hundred and twenty years from the day on which he was born; and MUHAMMED ſays, an hundred and ten years; and ABU YÚSUF ſays, an hundred and five years; and ſome of them, *the learned*, ſay, ninety years; and according to that *opinion* are deciſions *made*. Some of *the learned in the law* ſay, that the eſtate of a loſt perſon muſt be reſerved for the final regulation of the *Imàm*, and the judgement ſuſpended as to the right of another perſon, ſo that his ſhare from the eſtate of his anceſtors muſt be kept, as in the *caſe* of pregnancy; and, when the term *is* elapſed, and judgement given of his death, then his eſtate *goes* to his heirs, *who are* to be found, according to the judgement on his deceaſe; and, what was reſerved on his account from the eſtate of his anceſtor, is reſtored to the heir of his anceſtor, from whoſe eſtate that ſhare was reſerved; ſince the loſt perſon *is* dead as to the eſtate of another.

The principle in arranging caſes concerning a loſt perſon *is*, that the caſe be arranged on a ſuppoſition of his life, and then arranged on a ſuppoſition of his death; and the reſt of the operation *is* what we have mentioned in the chapter of pregnancy.

On an Apoſtate.

WHEN an apoſtate *from the faith* has died naturally, or been killed, or paſſed into a hoſtile country, and the *Kádi* has given judgement on his paſſage *thither*, then what he had acquired, at the time of his being a believer, *goes* to his heirs, *who are* believers; and what he has gained ſince the time of the apoſtaſy is placed in the publick treaſury,

treaſury, according to ABU HANÍFAH (may GOD be merciful to him!) but, according to the two *lawyers* (ABU YÚSUF *and* MUHAMMED) both the acquiſitions *go* to his believing heirs; and, according to ALSHÁFIÎ (may GOD be merciful to him!) both the acquiſitions are placed in the publick treaſury; and what he gained after his arrival in the hoſtile country, that *is* confiſcated by the general conſent: and all the property of a female apoſtate *goes* to her heirs, *who are* believers, without diverſity of opinion among our maſters, to whom God be merciful! but an apoſtate ſhall not inherit from any one, neither from a believer nor from an apoſtate like himſelf, and ſo a female apoſtate ſhall not inherit from any one; except when the people of a whole diſtrict become apoſtates altogether, for then they inherit reciprocally.

On a Captive.

THE rule concerning a captive *is* like the rule of other believers in regard to inheritance, as long as he has not departed from the faith; but, if he has departed from the faith, then the rule concerning him *is* the rule concerning an apoſtate; but, if his apoſtaſy be not known, nor his life nor his death, then the rule concerning him *is* the rule concerning a loſt perſon.

On Perſons drowned, or burned, or overwhelmed in Ruins.

WHEN a company *of perſons* die, and it is not known which of them died firſt, they are conſidered, as if they had died at the ſame moment; and

and the eſtate of each of them *goes* to his heirs, *who are* living; and ſome of the deceaſed ſhall not inherit from others: this is the approved *opinion*. But ÂLÍ and IBNU MASÛÚD ſay, according to one of the traditions from them, *that* ſome of them ſhall inherit from others, except in what each of them has inherited from the companion of his fate.

A COM-

A

COMMENTARY

ON

THE SIRÁJIYYAH.

IN our adminiſtration of juſtice to *Mohammedans* according to their own laws, it will be of no uſe to inquire, what their legiſlator meant by declaring, that *the law of inheritances conſtituted one half of juridical knowledge*:* if he intended any thing more than a ſtrong aſſertion of its importance, he probably had in contemplation the two general modes of acquiring property, *contracts* and *ſucceſſion,* or the agreement of parties and the operation of law; and this explanation of the phraſe, which had occurred to me on my firſt peruſal of it, is alſo ſuggeſted by *Sayyad SHARÍF,* together with a more fanciful interpretation, which *Máulavi* KÁSIM has adopted, that, *life* and *death* being incident to our probationary ſtate in this world, and the law of *ſucceſſion* manifeſtly relating to the *dead,* it is properly oppoſed to all other laws, which preſcribe the duties and aſcertain the rights of the *living;* but we merely take notice of the ſentence, that no part of the *Sirájiyyah* may be unexplained, and proceed to the *four* acts, which, on the deceaſe of a *Mohammedan,* are to be ſucceſſively performed by the magiſtrate, or under his authority.

* Page 517.

I. A

I. A regard to publick decency and convenience, as well as to publick religion and health, ſeems in all nations to require, that the bodies of deceaſed perſons be removed out of ſight, with all due ſpeed and ſolemnity, at a moderate expenſe to be defrayed, even before the payment of their juſt debts, out of the property left by them, on which no legal claim, from hypothecation or otherwiſe, had previouſly attached: but the *Muſelman* lawyers, who admit, that the funeral charges muſt in the firſt place be defrayed, aſſign a very whimſical reaſon for ſuch a priority; *becauſe*, they ſay, the *winding-ſheet and other clothes of the dead are analogous to ſuitable apparel worn by the living*, *and conſequently ſhould not be liable to the claims of a creditor.* The *legal* expenſes of burying a *Mohammedan* are very moderate, both in the *number* and *value* of the clothes, in which the deceaſed is to be wrapped: as more than *three* pieces of cloth for a man, or than *five* pieces for a woman, would be held a prodigal ſuperfluity, and leſs than thoſe, a niggardly deficiency, of expenſe, ſo, if the funeral clothes of AMRU or HINDA were dearer than the veſture uſually worn by them, when alive, it would be a culpable exceſs; and if cheaper, a blameable defect; but, if in fact they had been uſed to wear one ſort of apparel on ſolemn feſtivals, another in viſiting their friends, and a third, in their own houſes, the value of their viſiting dreſs muſt regulate that of their burial, and either extreme would be too prodigal or too parſimonious. Should their debts, indeed, cover the whole of their property, the *legal* expenſe of the funeral muſt be reduced to the *ſufficient* expenſe, as it is called; that is, to *two* pieces of cloth for AMRU and to *three* for HINDA: the names, dimenſions, and uſes of all the cloths uſed in funerals, both for men and for women, are enumerated in *Perſian* by *Máulaví* KÁSIM; but it would be uſeleſs to mention them; and it ſeems only neceſſary to add on this article, that, if deceaſed perſons leave no property whatever, or none without a ſpecial lien on it, the funeral expenſes muſt be paid by ſuch of their relations, as would have been compellable by law to maintain them, when living;

living; and, if there be no ſuch relations, by the publick treaſury, in which there is always an ample fund ariſing from forfeitures and eſcheats.

II. After the burial, all the juſt debts of the deceaſed muſt be paid out of his remaining aſſets, as far as they extend; and, if there be many creditors, they muſt be ſatisfied in equal proportion, except that *a debt of health*, to uſe the *Arabian* phraſe, muſt be diſcharged before a *debt of ſickneſs*; that is, a debt *contracted* or *acknowledged*, while the party was of ſound underſtanding and body, is preferred, when legally proved, to one *acknowledged* in ſickneſs, but of which no other evidence is produced. A religious vow, or promiſe of a charitable donation, as an atonement for ſin, conſtitutes a debt *in conſcience* only; and the ſum thus promiſed muſt be paid out of a third part of the aſſets, after the legal creditors have been ſatisfied, provided that it was bequeathed by will; but, if no will was made, the temporal eſtate ſhall not be charged with a mere debt of religion.

III. The legacies of a *Muſelman*, to the prejudice of his heirs, muſt not exceed *a third part* of the property left by him, and remaining after the diſcharge of his debts: over a third of ſuch reſidue he has abſolute power; and his legatee ſhall receive it immediately, whether a ſpecifick thing or certain ſum of money, or only a fractional part of his eſtate, was bequeathed. This is the opinion of SHARÍF; though a diſtinction, which the text by no means implies, has been taken between a *determinate* and an *indeterminate* legacy.

IV. We come now to the *diſtribution* of his eſtate, remaining after the payment of debts and legacies, among his *heirs* (for ſo we may call them, although *real* and *perſonal* property are undiſtinguiſhed in the laws of the *Arabs*) according to certain rules derived from three ſources, the

the *Korán*, the genuine ſyſtem of oral traditions from the legiſlator, and thoſe opinions in which the learned and orthodox have generally concurred*: the order, and proportions, in which the property of AMRU or HINDA muſt be diſtributed, conſtitute the principal ſubject of the work, which we have undertaken to explain.

1. The firſt claſs of *heirs* are they, who may be called *ſharers*, becauſe a certain *ſhare* of the eſtate is expreſsly allotted to each of them in the *Korán*, and particularly in the *fourth* chapter of it.

2. Next come they, who may be diſtinguiſhed by the name of *reſiduaries*, becauſe they take the *reſidue* after the *ſhares* have been duly diſtributed; and they are of two ſorts, reſiduaries by *conſanguinity* and reſiduaries for *ſpecial cauſe*, the former of whom are preferred in the order of ſucceſſion; the latter are the maſters, or miſtreſſes of enfranchiſed ſlaves, or their *male* reſiduary heirs. If no *ſharers* be living, the *reſiduaries* take the whole; but, if there be ſharers *by conſanguinity* and no reſiduaries, a farther portion of the inheritance *reverts* to them, though never to the widower or to the widow, while any heirs by blood are alive.

3. On failure of the two preceding claſſes, the diſtribution is made among thoſe *next of kin*, who are neither *ſharers* nor *reſiduaries:* they may be called the *diſtant kindred.*

4. Should none of the diſtant kindred be living and capable of inheriting, the eſtate goes (unleſs there be a widow or a widower, who is firſt entitled to *a ſhare)* to him, who may be called the *ſucceſſor by contract*; and of that ſucceſſion it is neceſſary to give an example: if AMRU, a man of an unknown deſcent, ſay to ZAID, "Thou art my

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"kinſman,

" kinſman, and ſhalt be my ſucceſſor after my death, *paying for me* any " fine and ranſom, to which I may become liable," and ZAID accept the condition, it is a valid contract by the *Arabian* law ; and, if ZAID alſo be a man whoſe deſcent is unknown, and make the ſame propoſal to AMRU, who likewiſe accepts it, the contract is mutual and ſimilar, and they are *ſucceſſors by contract* reciprocally.

5. If no ſuch agreement had been made, but if AMRU in his life time had acknowledged ZAID, a man of an unknown pedigree, to be his *brother* or his *uncle*, that is, to be related to him by his *father* or by his *grandfather*, though in truth he had no ſuch relation, and the bare acknowledgement of AMRU cannot be admitted as a proof of it, yet, if AMRU die without retracting his declaration, ZAID is called *the acknowledged kinſman by a common anceſtor*, and ſtands in the *fifth* claſs of ſucceſſors, but takes the eſtate before the general diviſee.

6. Laſt of all comes the perſon, to whom the deceaſed had left the whole of his property by a will duly made and proved ; for, though the law ſecures to his heirs of the five preceding claſſes *two thirds* of his eſtate, yet it ſo far reſpects his *dominion*, while he lived, over his own property, and his *will* as to the diſpoſal of it after his deceaſe, that it will rather give effect to an intention not ſtrictly conformable to law (for the *Korán* ſeems to allow *pious bequeſts* only), than ſuffer his eſtate to eſcheat ; which muſt be the conſequence of his dying without a repreſentative. All ſuch eſcheats to the ſovereign go towards a fund for charitable uſes ; and according to the ſyſtem of ZAID, the ſon of THÁBIT, which has been ſhortly explained in a former publication, that fund, if it be *regularly eſtabliſhed*, is entitled to the whole eſtate on failure of reſiduary heirs, without any *return* to the ſharers, and to the entire excluſion of the *four* laſt claſſes ; but this doctrine ſeems quite exploded.

BEFORE

BEFORE we proceed to the law of *ſhares*, it is proper to take notice of the four impediments to ſucceſſion; which are ſlavery, homicide, difference of religion, and difference of country, or of allegiance; the laſt of which diſabilities relates only to ſuch as are not *Muſelmans.*

1. Slavery, by the *Mohammedan* law, is either *perfect* and *abſolute*, as when the ſlave and all, that he can poſſeſs, are wholly at the diſpoſal of his maſter, or *imperfect* and *privileged*, as when the maſter has promiſed the ſlave his freedom on his paying a certain ſum of money by eaſy inſtalments, or, without any payment, after the death of the maſter: a female ſlave, who has borne a child to her maſter, is alſo *privileged*; but in both ſorts of ſlavery, as long as it continues, the ſlave can acquire no property, and conſequently cannot inherit. The *Arabian* cuſtom of allowing a ſlave to cultivate a piece of land, or ſet up a trade, on his own account, ſo that he may work out his manumiſſion by prudence and induſtry, and by degrees pay the price of his freedom, may ſuggeſt an excellent mode of enfranchiſing the black ſlaves in our plantations, with great advantage to our country and without loſs to their proprietors.

2. Homicide is either *with malice prepenſe* and puniſhable with *death*, or *without proof of malice*, and *expiable* by redeeming a *Muſelman* ſlave, or by faſting two entire months, and by paying the price of blood; or, thirdly, it is *accidental*, for which an expiation is neceſſary. *Malicious homicide*, or *murder* (for, by the beſt opinions, the *Arabian* law on this head nearly reſembles our own) is committed, when a human creature is unjuſtly killed with a weapon, or any dangerous inſtrument likely to occaſion death, as with a ſharp ſtick or a large ſtone, or with fire, which has *the effect*, ſays KÁSIM, *of the moſt dangerous inſtrument*, and, by parity of reaſon, with *poiſon* or by *drowning*; but thoſe two modes of killing are not ſpecified by him; and there is a ſtrange diverſity of opinion

opinion concerning them: killing *without proof of malice* is, when death ensues from a beating or blow with a slight wand, a thin whip, or a small pebble, or with any thing not ordinarily dangerous: *accidental death* is, when it was neither designed nor could have been prevented by ordinary care, as if AMRU were to shoot an arrow at a wild beast, and the arrow by accident were to kill ZAID, or if MÁZIN were to fall from his terrace upon ZUHAIR and kill him by his fall; in which cases the slayer would not be permitted to inherit *from the slain*. If, however, a man were to dig a pit, or fix a large stone, on the field of another, and the owner of the field were to be killed by falling at night into the pit, or running against the stone, the doer of the illegal act, which was the primary *occasion* (but not the *cause*) of the death, must pay the price of blood, but would not, it seems, be disabled from succeeding to the property of the deceased, whom he could not in strictness be said to have killed.

3. An unbeliever shall never be heir to a believer, nor conversely; but infidel subjects may inherit from infidels.

4. The difference between two states or countries consists in the difference of sovereigns, by whom protection is given to their respective subjects, and to whom allegiance is respectively due from them: this difference is particularly marked between a country governed by a *Mohammedan* power and a country ruled by a prince of *any other religion*; for they are always, virtually at least, in a state of warfare, the first being called by lawyers *the seat of peace*, and the second, *the seat of hostility*. A difference of country, therefore, which excludes from the right of inheriting, is either *actual* and *unqualified*, as when an *alien enemy* resides in the *seat of hostility*, or when an alien has chosen his domicil in the *seat of peace*, and pays the tribute exacted from infidels, in which case the *tributary* shall not be heir to the *alien enemy* dying abroad, nor

nor converſely, becauſe each of them owed a ſeparate allegiance; or the difference is *qualified**, as when a *fugitive* enemy ſeeks quarter, and obtains a temporary reſidence in the *ſeat of peace*, or when two alien enemies are fugitives from two different hoſtile countries: now, although the *tributary* and the *fugitive* actually live in the ſame kingdom, yet, ſince the fugitive continues a ſubject of the hoſtile power, he remains, *as it were*, under a different government, and there is no mutual right of ſucceſſion between him and the tributary; nor, by ſimilarity of reaſon, between *two fugitives*, who leave two diſtinct hoſtile governments, and obtain quarter for a time in the land of believers, but without any intention of making it their conſtant abode.

If none of theſe four incapacities preclude the heirs of Amru from the legal ſucceſſion to his eſtate, which we will ſuppoſe already ſold and reduced to money of one denomination, the magiſtrate, or his officer, muſt proceed to the diſtribution of the *ſhares*; and, as they are a *moiety*, a *fourth*, an *eighth*, two *thirds*, one *third*, and a *ſixth*, of the aggregate ſum, it will be convenient at firſt to conſider that ſum as conſiſting of *twenty-four* equal parts, ſo that the ſhares will be, in whole numbers, *twelve*, *ſix*, *three*, *ſixteen*, *eight*, and *four*.

The *ſharers* are *twelve* perſons, *four* males and *eight* females; but, before we ſpecify their reſpective allotments, it is neceſſary to premiſe, that a *grandfather* and a *grandmother*, according to the *Arabian* idiom, ſignify a *male*, and a *female*, *anceſtor* in any degree; that a *true* grandfather is he, between whom and the deceaſed no female anceſtor intervened; that a *falſe* grandfather is, where the paternal line of aſcent was broken by the intervention of a female; and that a grandmother alſo is called *true*, when no *falſe grandfather* intervened between her and the deceaſed: in ſhort, the only *true line of anceſtry*, according to the *Arabs*, is

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is an uninterrupted ſucceſſion of *paternal* forefathers. The *male* ſharers then are the *father*, the *true grandfather*, the *brother by the ſame mother* only, and the *widower:* the females are the *widow*, the *daughter*, the *female iſſue of the ſon*, the *ſiſter of the whole blood*, the *ſiſter by the ſame father* only, the *ſiſter by the ſame mother* only, the *mother* herſelf, and the *true grandmother*.

We begin with the *males* in the order of the ſhares before enumerated; and, 1. The father of AMRU or HINDA takes* a *ſixth* abſolutely, though a *ſon* of the deceaſed be living, or any male deſcendant, who claims wholly through males; but, if there be no ſuch male deſcendant, he becomes *a reſiduary heir*; and, if there be only a *daughter* of the deceaſed, or a *female* deſcendant from the ſon, he firſt has his legal ſhare, or a *ſixth*, and, when her ſhare alſo has been allotted, he claims the reſidue. 2. The true grandfather is excluded from any ſhare by the living father, *through whom* alone the grandfather bore a relation to the deceaſed; and, although a ſimilar reaſon might afterwards be applied to the mother, and operate to the excluſion of her children, yet the father has the additional ſtrength of a double title, both as a *ſharer* and as a *reſiduary:* but, if the father alſo be dead, *his* father, or true paternal anceſtor, has exactly the ſame intereſt, except in four caſes, which will be preſently mentioned. 3. A ſingle half-brother, by the ſame mother only, takes a *ſixth*, and two or more ſuch half-brothers, a *third*; provided that the deceaſed left neither children, nor male iſſue of a ſon, nor a father, nor a true grandfather; by any of whom the brothers by the ſame mother are excluded; and this article brings us neceſſarily to one claſs of *female* ſharers; for, *in this inſtance*, there is no diſtinction of ſex; both brothers *and ſiſters* by the ſame mother only having an equal right and an equal ſhare in the diſtribution. 4. A

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moiety

moiety of HINDA's eſtate, if ſhe die without children, or the iſſue of a deceaſed ſon, goes to her widower AMRU, who, if ſhe leave ſuch iſſue, has no more than a *fourth*.

As examples of the father's rights, let us ſuppoſe AMRU to have died worth two thouſand four hundred pieces of gold, leaving his father ZAID, and either a ſon or a ſon's ſon, OMAR: in this caſe the *four hundred* pieces are the ſhare of ZAID, and OMAR takes the remaining two thouſand; but, if AMRU leave only his father ZAID and either a daughter, or ſon's daughter, LAILA, the father is firſt entitled to the *four hundred* pieces, or *ſixth* part; and, after LAILA has received *twelve* hundred, or a moiety of the eſtate (which, as we ſhall ſee, is her *ſhare* in this caſe), he takes, as *reſiduary*, the *eight* hundred pieces, which remains; ſo that the property of AMRU is equally divided between them. Should no relation be left but ZAID the father, and LEBÍD the brother, of the deceaſed, LEBÍD is excluded; and the whole eſtate goes to ZAID. If, in the three preceding caſes, the paternal grandfather SÁLIM had been left inſtead of ZAID, his rights would have been preciſely the ſame; and the only difference between ZAID and SÁLIM will appear from the four following examples. 1. The paternal grandmother would be excluded by ZAID her ſon, but not by his father, her huſband, SÁLIM. 2. If AMRU or HINDA leave a father ZAID, a mother SOLMA, and a widow ZAINEB, or widower HÁRETH, the mother takes a *third* part of what remains after ZAINEB or HÁRETH has received the legal ſhare; but, if SÁLIM be ſubſtituted for ZAID, ſhe would have a right to a third of the *whole aſſets*, according to the prevailing opinion, although ABÙ YÚSUF thought her entitled, even in that caſe, to no more than a third of *the remainder*. 3. The brothers of the whole blood, and thoſe by the ſame father only, are excluded from the inheritance by ZAID the father, but not by the grandfather

SÁLIM,

SÁLIM, as the beſt lawyers agree, diſſenting on this point from their maſter ABÚ HANÍFAH. 4. If AMRU had manumitted his ſlave YÁSMÌN, and died, leaving his father ZAID and a ſon OMAR, a *ſixth* part of the right of ſucceſſion to YÁSMÌN would have veſted, according to AB`U YÚSUF, in ZAID, but, if the paternal grandfather SÁLIM had been left inſtead of the father, the whole intereſt would have veſted in the ſon: in this caſe that illuſtrious lawyer ultimately diſſented from his maſter and from his fellow-ſtudent *MUHAMMED*, who were both very juſtly of opinion, that, whether ZAID or SÁLIM were alive on the death of the manumittor, the whole right of ſucceſſion to the manumittee veſted in OMAR.

Let us proceed to the ſhares of the *females*; and 1. If AMRU die without children, and without any iſſue of a deceaſed ſon, his widow HINDA muſt receive a *fourth* of his aſſets; but her ſhare is an *eighth* only*, if any ſuch iſſue be living: ſhould he leave more widows than one, they take equal parts of ſuch *fourth* or *eighth*; ſo that the legal ſhare of the widower is always in a double ratio to that of the widow or widows: as, if HINDA die worth *twenty-four* thouſand zecchins, her ſurviving huſband AMRU muſt be entitled either to *twelve* or to *ſix* thouſand; and if AMRU die with the ſame eſtate, his widow HINDA muſt have either *ſix* or *three* thouſand for her ſole ſhare; or, if ZAINEB and ABLA had alſo been legally married to AMRU, the three widows muſt receive either *two* or *one* thouſand zecchins each, as the caſe may happen. 2. *One daughter* takes a moiety, and *two or more* daughters have *two thirds*, of their father's eſtate; but, if the deceaſed left a ſon, the rule, expreſſed in the *Koràn*, is this: "to one male give the portion of two females;" and the daughters in that caſe are not properly *ſharers*, but *reſiduary heirs* with the ſon, their part of the inheritance being always in a ſubduple ratio to his part. Thus, if AMRU die worth *twenty-four* thouſand pieces of gold, his only child FATIMA takes twelve

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thouſand

thousand as her *share*; but, if she have three sisters, Azza, Latífa, and Zubaida, two thirds of the assets, or *sixteen* thousand pieces, are equally divided between the four girls; and, if there be a son Omar, he must receive, in the first case, *sixteen* thousand, while Fátima has *eight*; and, in the second, *eight* thousand, while she and her sisters take each *four* thousand, pieces. 3. If Omar had died before his father, leaving female issue, and his father had then died without any daughter of his own, the daughters of Omar would have had precisely the same shares, to which those of Amru himself would have been entitled; but, had Fatima been living, she would have taken *half* the estate, or *twelve* thousand pieces of gold, and a *sixth* only, or *four* thousand, the complement of *two thirds* or *sixteen* thousand, would have been equally distributed among her nieces. Had Fátima and Azza been at that time alive, they would have taken their legal share, to the exclusion of their brother's *female* issue, unless the right of that issue had been sustained by a *male* in an *equal*, or a *lower* degree, who would have made them *residuaries*, "the *male* taking, by the rule, the portion of "females;" but a male in a *higher* degree would not have given them that advantage; and, if Omar himself had survived, his daughters would have been wholly excluded. The *six* cases, therefore, or different situations, of the female issue of Omar may be thus recapitulated: 1. A single female takes a *moiety*. 2. Two or more have *two thirds*. 3. A *male* in the same, or a lower, degree than themselves, gives them a *residuary* right in a subduple ratio to his own. 4. With a daughter of Amru, who is entitled to *half*, they would have only a *sixth*, to make up the regular share of the female issue. 5. They are excluded, if Amru left more daughters than one, but no male issue in any equal, or a *lower*, degree. 6. A son also of Amru wholly excludes them. In the three first cases, their legal claims correspond with those of daughters: but in the three last their rights are weaker, because they are in a remoter degree from the deceased.

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The pedigree exhibited in the text * is called by the *Arabs* the *taſhbíb*, becauſe, in their opinion, it ſharpens the underſtanding, and captivates the fancy as much as the *compoſition of an elegant love-poem*, which the word literally ſignifies; but, without adopting ſo wild a metaphor, we may truly ſay, that it is very perſpicuous, and that no comment, after what has been premiſed, could render it clearer. An example, however, will ſhow more diſtinctly than an abſtract rule, in what manner an eſtate is diviſible, when a *male* deſcendant gives a *reſiduary* title to a *female* in the ſame, or in a *higher*, degree. Call the only ſurviving male deſcendant OMAR, and ſuppoſe him to be the brother of AMINA, who ſtands loweſt in the firſt ſet of females: here the higheſt female in that ſet muſt receive a *moiety* of the aſſets; the next below her takes a *ſixth* together with the higheſt of the ſecond ſet, as the complement of *two thirds*; and the *reſidue* muſt be divided into *five* portions, of which OMAR claims *two* and each of the females in the ſame degree, one; but the three females below them are excluded. If OMAR be the brother of ZARÍFA, whom we ſuppoſe the loweſt of the middle ſet, the remaining *third* of the eſtate muſt be diſtributed in *ſevenths*, becauſe there are *five* females, *three* in a higher, and *two* in an equal, degree with OMAR, who muſt always have a double portion; and, if he be the brother of UNAIZA, the loweſt female of the *third* ſet (who, on the former ſuppoſition, would have been excluded), there will be *ſix* female *reſiduaries* entitled to portions with OMAR, but in a ſubduple ratio; ſo that, if AMRU died worth *twenty-four* thouſand ducats, the daughter of his ſon takes *twelve* thouſand of them; the two daughters of his ſons' ſons receive each *two* thouſand; and, the reſidue being *eight*, OMAR is entitled alſo to *two* thouſand ducats, while UNAIZA and the *five* women, who remain, have each *one* thouſand, which they owe to the fortunate exiſtence of OMAR. 4.† The rights of ſiſters by the ſame father

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† Page 521.

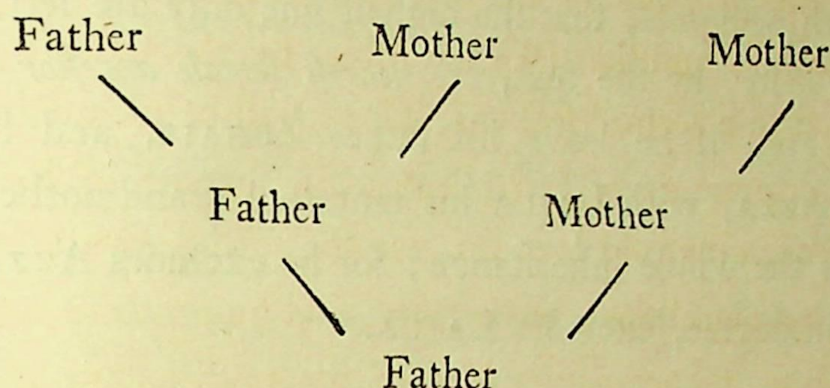
father and mother, and (5.) thoſe of ſiſters by the ſame father only, are explained in the text with ſufficient clearneſs, but it is proper to obſerve, that the *fifth* caſe of the firſt claſs in compriſed in the *ſeventh* caſe of the ſecond; and that (6.) the ſiſters by the ſame mother have been mentioned in a former ſection. There will be no uſe in repeating the ingenious arguments of IBNU ABBÁS in ſupport of his diſſent on many points from other old lawyers, nor the ſolid anſwers, which have been given to his objections; but a ſtory, told by SHARÍF, may here be repeated, becauſe it conveys an idea of the traditionary *Arabian* law, and ſhows from what ſources our excellent author derived his doctrine: ' HUDHAIL uſed to relate, that ABÚ MÚSA, being conſulted on the ' diſtribution of an heritage among a *daughter*, a ſon's *daughter*, and a ' *ſiſter*, anſwered, *the firſt muſt have a moiety*; *the ſecond*, *a ſixth*; *and* ' *the third*, *what remains*; but " Conſult IBNU MASÛÚD, added he, " and apprize me of his anſwer:" when IBNU MASÛÚD, was conſulted, ' he ſaid, that he was preſent, when MUHAMMED himſelf gave the ' ſame deciſion;' and, when that anſwer was reported to ABU MUSA, he ſaid, " you muſt put no queſtions to me, as long as that illuſtrious " lawyer remains with you." 7.* Although the different rights of the mother in different caſes be very clearly explained, yet her title to *a third of the reſidue* may be illuſtrated by two examples: firſt, if ADHRA leave only her huſband WÁMIK, her mother SÔÁDA, and her father MÁZIN, half of her eſtate goes to WÁMIK, a third of the other half, or a ſixth of the whole, to SÔÁDA, and the remainder to MÁZIN; but, ſecondly, if WÁMIK leave only his wife ADHRA, his mother ZAINEB and his father LEBÍD, the widow takes a quarter of his property, while ZAINEB has a third, and LEBÍD two thirds, of the remaining three quarters. 8. In giving an example of the diviſion between two great grandmothers†, we may anticipate in ſome degree the arithmetical part of

* Page 522.

† Page 523.

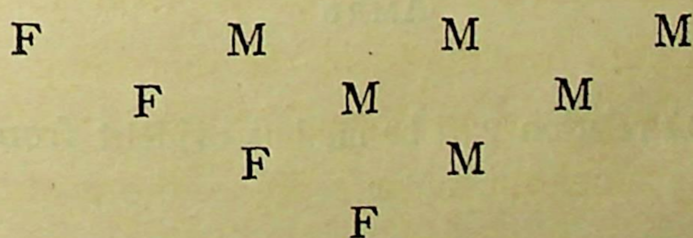
the

the work, which will be found extremely clear and ingenious. The pedigree exhibited by SHARÍF is in this form:



Now the paternal grandmother's mother, and the mother of the paternal grandfather, are together entitled to a ſixth, and the paternal grandfather's father to the reſidue, of the eſtate, which ought by the general rule, to be divided into *ſix* parts, becauſe ſix is the denominator of the ſhare; but, to avoid a fraction, we muſt obſerve the proportion of *one*, or the ſixth part, to *two*, or the number of perſons entitled to it; and, ſince *one* and *two* are *prime* to each other, we muſt multiply *two* into *ſix*, and the product is the number of parts into which the property muſt be divided; ſo that of *twelve* cows or horſes the great grandfather will have *ten*, and each of the great grandmothers, *one*.

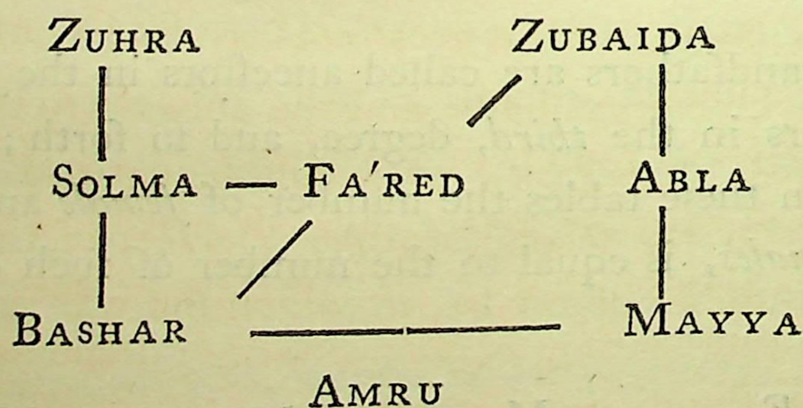
The great grandfathers are called anceſtors in the *ſecond*, and their fathers, anceſtors in the *third*, degree, and ſo forth; and it muſt be remarked that in theſe tables the number of *female* anceſtors, who inherit with the *males*, is equal to the number of ſuch degrees: thus in the following,



 there

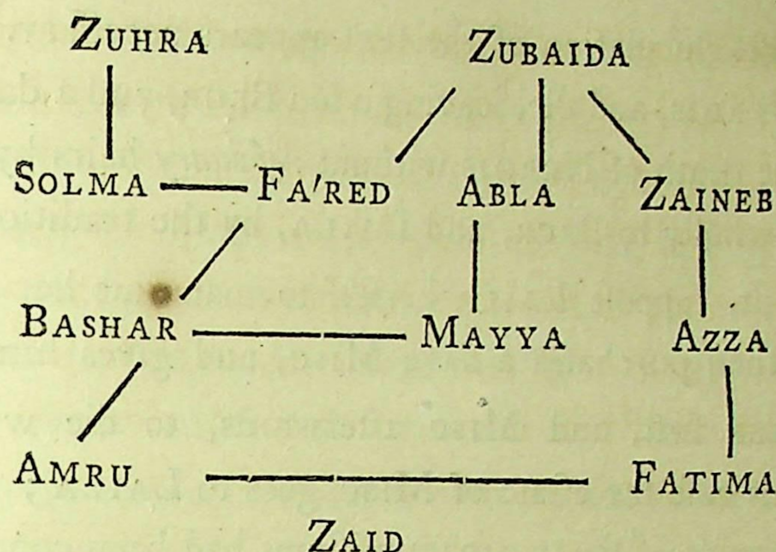
there are *three* great great grandmothers, and the eſtate muſt be divided into *eighteen* parts, becauſe one and three are prime to each other. We ſuppoſe in both pedigrees, that the higheſt line only are left by the deceaſed AMRU; for, by the text, *the neareſt female anceſtor excludes the more diſtant*; and, if he leave his father ZUHAIR, and his paternal grandmother AZZA, with LAILA his maternal grandmother's mother, ZUHAIR takes the whole inheritance; for he excludes AZZA, and ſhe, being nearer in degree, excludes LAILA.

Let us conclude the ſubject with a caſe put by SHARÍF in illuſtration of the pedigree in the text: ZUBAIDA gave her daughter's daughter MAYYA in marriage to her ſon's ſon BASHAR, and the young pair had a ſon AMRU, who acquired an eſtate, and died: now ZUBAIDA was both paternal and maternal great grandmother of AMRU, and had, therefore, a *double* relation to him; but another woman, named ZUHRA, had married her daughter SOLMA to FÁRED, who was the ſon of ZUBAIDA, brother of ABLA, and father of BASHAR; ſo that ZUHRA was AMRU's paternal grandmother's mother, and had only a ſingle relation; as it will appear by the following arrangement of the family:



The caſe of a *triple* relation will be no leſs evident from the following pedigree:

ZUHRA



For, if AMRU, whom in the former caſe we ſuppoſed to be dead without iſſue, had lived and married his couſin FA'TIMA, by whom he had a ſon ZAID, who died leaving property, ZUBAIDA would have a *triple* relation to the deceaſed; firſt, as his maternal great grandmother's mother; ſecondly, as his paternal grandmother's grandmother; and thirdly, as the mother of his paternal great grandfather; but ZUHRA has only a *ſingle* relation to ZAID, as grandmother of his paternal grandfather BASHAR.

In both theſe caſes a *ſixth* of the aſſets is divided *equally* between the *two* female anceſtors, by the opinion of ABU YUSUF, and, according to one authority, by that of his great maſter alſo; but his fellow-ſtudent MUHAMMED (whoſe arguments, and the anſwers to them, it is needleſs to add) contended, that ZUBAIDA would be entitled in the firſt caſe to *two thirds*, and, in the ſecond, to *three fourths*, of that *ſixth* part, according to the number of modes, in which ſhe was related to AMRU or ZAID.

No comment could add perſpicuity to the chapter on *reſiduary heirs**, until we come to the caſes of inheritance from enfranchiſed ſlaves†, where

* Page 523.

† Page 525.

where a ſhort elucidation of the text appears neceſſary. If AMRU enfranchiſe NERGIS, and die, leaving a ſon BECR, and a daughter LAILA; then, on the death of NERGIS without *reſiduary* heirs by blood, his property goes wholly to BECR, and LAILA, by the traditionary rule, takes nothing; but, ſuppoſe LAILA herſelf to manumit her black ſlave SÚSEN, who then purchaſes a ſlave MISC, and gives him freedom; and ſuppoſe SÚSEN firſt, and MISC afterwards, to die without reſiduary heirs, in this caſe the eſtate of MISC goes to LAILA; nor would there be any difference, if the two manumiſſions had been conditioned to pay a certain ſum of money at a certain time. The caſe of a manumiſſion promiſed on the death of the miſtreſs, has rather more difficulty; but an example will make it clear: LAILA promiſes NERGIS, that, on her death, he ſhall be free; but, by the perſuaſion of a *Chriſtian* friend, ſhe renounces her faith, and ſeeks refuge in a hoſtile country: now *a believer cannot be the ſlave of an infidel*; and the *Mohammedan* judge pronounces accordingly, that NERGIS has gained his freedom; but LAILA, repenting of her apoſtaſy, returns to her native country and her former belief; after which NERGIS dies without heirs: LAILA ſucceeds as reſiduary to her promiſee, as ſhe would have ſucceeded to a ſlave of NERGIS purchaſed after the deciſion of the judge, if a ſimilar promiſe of manumiſſion at his death had been made by the maſter; and if that ſecond promiſee had died without heirs after her repentance and return. Should CÁFÚR, a ſlave of LAILA, marry, with her conſent, MERJÁNA, the freedwoman of AMRU, the ſon of that couple would be born free, becauſe, in reſpect of freedom or ſlavery, *a child has the condition of its mother*, and he bears a relation to AMRU her manumittor; but, ſhould LAILA give CÁFÚR his freedom, he would *draw* that relation from AMRU, through himſelf, to LAILA, ſo that ſhe would ſucceed to the ſon of CÁFÚR and MERJÁNA, if he died after his parents and without other heirs of the firſt or ſecond claſs: the caſe would be

ſimilar

ſimilar, if CÁFÚR being enfranchiſed, had bought a ſlave MISC, and given him in marriage to the freedwoman of ZAID; for, if the iſſue of that marriage had been a ſon, born free, but with a relation to ZAID, and if CÁFÚR had then given MISC his liberty, he would have *drawn* from ZAID the relaion of his freedman's child, and transferred it, through himſelf, to LAILA his former miſtreſs. This doctrine of a *relation* (as the *Arabs* call it) firſt *veſted* through the mother and then *deveſted* through the father, is founded on a deciſion of OTHMÁN in the caſe of ZUBAIR and RAFÍ.

We had occaſion before, to mention the difference (according to ABU YUSUF) between the *father*, and the *grandfather*, of the manumittor in regard to their ſucceſſion, with his *ſon*, to the property of a freedman; nor can any thing of moment be added here; but it will be proper to explain at large the concluding caſe in the chapter of *reſiduaries*, which proves, that the relation of enfranchiſement may ariſe by the *act of law* as well as by the *act of the party*. Let it be premiſed, that marriage is prohibited between kindred of two claſſes; firſt, between all thoſe in aſcending or deſcending lines of conſanguinity, who are called *near*; ſecondly, between brothers and ſiſters, and their iſſue, or between nephews or nieces and aunts or uncles, paternal or maternal, who are called *intermediate*; but, between thoſe of the third, or *diſtant*, claſs, as the firſt or other couſins, there is no prohibition: now, if AMRU or HINDA purchaſe a kinſwoman or kinſman within either of the *prohibited* degrees, the ſlave becomes inſtantly free, and a right of ſucceſſion veſts in the purchaſor, though the maſterſhip began and ended in one moment. Call the three daughters of HÁRETH a ſlave, ZUBAIDA, SÁFIYA, AMINA, who derived freedom from their mother, and two of whom, the firſt and third, purchaſe HÁRETH for fifty pieces of gold: he becomes in that inſtant free; and, if he die leaving property, two thirds of it go to his three daughters as their legal ſhares,

and

and the reſidue belongs to the two, who procured him liberty; three fifths of it to ZUBAIDA, who contributed her *thirty*, and two fifths to AMINA, who added her *twenty*, pieces. To arrange the diſtribution without fractions, begin with *three*, the denominator of the legal ſhare: now *two*, its numerator, is *prime* to the number of ſharers; and *one* is prime alſo to *five*, the number of reſiduary portions; but *thirty* and *twenty* are *compoſed* to one another, ſince *ten* meaſures thirty by *three* and twenty by *two*; and *five*, the ſum of thoſe tenths, may be conſidered as ſtanding in the place of the number of reſiduaries: again, *five* and *three* are prime to each other, and their product is *fifteen*, which, being multiplied into *three*, the firſt-mentioned denominator, produces *forty-five*, the number of equal parcels, into which HÁRETH's eſtate muſt be divided; ſo that *thirty*, or *two thirds*, may be diſtributed in *tens* to the three daughters, and *fifteen* or the reſidue, in *threes* to the *two*, who redeemed their father; ZUBAIDA taking in all *nineteen*, AMINA *ſixteen*, and SÁFIYA, only *ten*, portions of the inheritance. This is the calculation of SHARÍF, and the grounds of it will preſently appear; but the operation might have been ſhortened thus: multiply the denominator of the *legal ſhare* into the number of ſharers, and then multiply the product into the denominator of the *reſiduary portions*.

The chapter of *excluſion** is very perſpicuous; but the caſe of an *unbelieving* heir having really occurred in the time of ALI, we may inſert it as a monument of early *Arabian* juriſprudence. SOLMA had embraced the new faith, and died, leaving her huſband, and two brothers by the ſame mother, who were all three believers, with a *ſon*, who continued an infidel: on a diſpute concerning the inheritance, ALI and ZAID gave a moiety to the widower, conſidering the ſon as actually *dead*, a third to the half-brothers, and the reſt to ſuch of the

* Page 525.

reſiduaries

refiduaries as believed in the *Korán*; while IBNU'L MASUÚD infifted, that the fon was *dead* as to the right of inheriting, but alive as to the power of excluding, and thought that he drove the widower from *a moiety* to a *fourth part* only of SOLMA's eftate; but the former opinion has prevailed, and in a curious book (for which there muft have been abundant materials) entitled *The Diffenfions of the Learned*, it is admitted, that, by univerfal affent, if AMRU leave a father, who is either a flave or an infidel, and a paternal grandfather, who is both free and a believer, the father is confidered as *dead in law* to all purpofes, and the grandfather is heir to AMRU.

We come now to the *Arabian* method of afcertaining the fmalleft number of *parcels*, into which an eftate can be divided, fo as to avoid fractions in the legal diftribution of it: that *number* we call the *denominator*, or divifor, of the *eftate*, though the *Arabick* word mean literally *the place of coming out*; and the problem is eafily folved by the following rules: if the two numbers in queftion be prime, multiply one of them into the other; if they be *compofit* to each other, multiply the *meafure* of one into the fecond, and the product will be the number fought. The whole fection* is as clear as it could be made in a verbal tranflation; and it would be fuperfluous to add examples of all the cafes, which muft occur to every one, who has attentively perufed the preceding parts of the work.

A cafe, which arofe in the reign of OMAR, has given occafion to fome debate†: LAILA died, leaving only AMRU her hufband, HINDA her mother, and ABLA her fifter of the whole blood. Now the hufband and fifter were each entitled to a moiety, and the mother, to a third, of LAILA's property, which, by the rule then eftablifhed, could

* Page 526. † Page 527.

be

be divided into *ſix* parts only; but ABBAS, a companion of MUHAMMED being conſulted by the Caliph, propoſed, that the regular diviſor ſhould be ſo *increaſed*, that of *eight* parts AMRU and ABLA might each take *three*, and HINDA *two*. The ſon of ABBAS, whoſe opinions were always rather ingenious than ſolid, was preſent at the deciſion; but, fearing the bad temper of the Caliph, ſuppreſſed at that time his own ſentiments: he thought, that the *ſiſter*, having (as we have ſeen) a weaker right, ſhould bear the loſs, becauſe, *where different rights concur, the weakeſt invariably yields*; and he ſaid, that, if an arithmetician could number the ſands, yet he could never make *two halves* and a *third* equal to a whole; but his opinion has never been adopted, becauſe, although the *ſiſter* may in ſome caſes be removed into a diſtinct claſs of heirs, yet, with a huſband and a mother of the deceaſed, her ſhare is fixed by poſitive law, and ſhe cannot by any means be deprived of it; ſo that the ſhares of all the claimants muſt be diminiſhed in *exact proportion*; for inſtance, if the property had been *twenty-four* pieces of gold, the mother would claim *eight*, and each of the other heirs, *twelve*; now thoſe claims cannot all be ſatisfied, but eight is to twelve, as *ſix* to *nine*, which will be the reſpective ſhares, according to the deciſion of ABBAS.

Examples of the diviſor *ſix* increaſed to *ſeven* and to *nine*, or of *twelve* to *thirteen*, *fifteen*, and *ſeventeen*, would appear equally ingenious, but would ſwell this commentary to an immoderate ſize: there are two deciſions, however, deſerving particular notice, becauſe they were made in real cauſes, and have been univerſally approved. ZUBAIDA left her huſband ADNÁN, with *two ſiſters of the whole blood*, two *ſiſters by the ſame mother only*, and the *mother* herſelf; whoſe legal ſhares, in order as they are mentioned, were a *moiety*, *two thirds*, *a third*, and *a ſixth*: it was impoſſible, therefore, to diſtribute them out of *thirty* pieces, for inſtance, divided into *ſix* equal parcels; but the judge, named SHURAIH, divided the whole eſtate into *ten* parcels, each conſiſting

ſiſting of *three* pieces, and allotted them to the claimants in the proportion of their ſhares; that is, to the huſband, *three* parcels, to the ſiſters of the whole blood, *four*; to the half-ſiſters, *two*; and to the mother, *one*; aſſuring ADNÁN, who at firſt complained of the judgement, that OMAR had made a ſimilar deciſion; and this caſe acquired celebrity among the *Arabs* by the name of SHURAIHIYYA. The next caſe, which was anſwered at once by ALI, while he was haranguing the people in the *mimbar*, or pulpit, at CÚFA, is fully ſtated in the text: the ſhare of the widow was, regularly, an *eighth*; that of the daughters, *two thirds*; and that of each parent, a *ſixth*, all which cannot be diſtributed out of *twenty-four* parcels; but ALI pronounced, that the property of the deceaſed ſhould be divided into *twenty-ſeven* equal parts, of which the widow ſhould have *three*; the daughters, *ſixteen*; and the two parents, *eight*. It is recorded, that, when the perſon, who conſulted ALI, was much diſſatisfied with his anſwer, and aſked *whether the widow was not legally entitled to an eighth*, the *Caliph* ſaid rapidly, "it is become a *ninth*," and proceeded in his harangue with his uſual eloquence.

The arithmetical part of the *Sirájiyya** is very ſimple, and may be found in the firſt pages of all our elementary books; but the difference of the *Arabian* idiom occaſions a little obſcurity. The chapter on primes and meaſures is founded on a ſimple analyſis: when two numbers are compared, they are either equal or unequal; if unequal, either the ſmaller is an aliquot part of the greater, or they have a common meaſure, which muſt either be *unit* alone, or ſome *number*, which the *Arabs* define *a multitude compoſed of units*. When the greateſt common meaſure is found by the rule, they conſider the two numbers as *agreeing* in a fraction, which has that common meaſure for its denominator and unit for its numerator; but the nature of the *Arabick* language makes it

* Page 528.

it impoſſible to expreſs in a ſingle word the fractions leſs than a *tenth*: thus *twenty-ſeven* and *twenty-four* agree, as they expreſs it, in a third; and a *third* of each number is called its *wafk*, or meaſure, as *nine* of twenty-ſeven, and *eight* of twenty-four. After this explanation of the word, which is tranſlated *the meaſure*, there will be no difficulty in the following caſes.

I. * AMRU leaves only his father and mother and ten daughters: now, by the rule, his eſtate ſhould be divided into *ſix* parts, becauſe the ſhare of each parent is a *ſixth*, and that of all the daughters *two thirds*; but *four* parts cannot be diſtributed, without a fraction, among *ten* perſons; for which reaſon we muſt multiply *five*, which is the meaſure of *ten*, into *ſix*, which is the firſt number of parcels, and the product *thirty* is the number of lots, into which the property of AMRU muſt in fact be divided; each of his parents taking *five* lots, and each of his daughters *two*.

II. HINDA leaves her huſband, both her parents, and ſix daughters; whoſe legal ſhares are a *fourth*, *two ſixths*, and *two thirds*, of the inheritance: now the regular denominator of the lots would be *twelve*, but it is raiſed to *fifteen*; and ſince *eight* parcels cannot be diſtributed equally among *ſix* daughters, the *meaſure* of ſix, or *three*, is multiplied by fifteen; ſo that of *forty-five* lots *nine* may go to the huſband, *twelve* to the parents, and *twenty-four* to the daughters, in exact proportion to their firſt diſtributive ſhares.

It will be very eaſy to apply the remaining rules to all the other examples given by SIRÁJ'UDDÍN †; but ſince, in the two laſt caſes, which are not likely to occur, the inheritance muſt be divided into 4320 and 5040 parcels, the calculation, after the *Arabian* mode, in

* Page 529.

† Page 529.

words

words at length, would be insufferably tedious, and the reader may make it in figures with little or no trouble. The latter of those two cases * is, however, subjoined; because it will fully explain the section, in which no examples are given. SÂAD leaves *two* wives, *six* female ancestors, capable of inheriting together, *ten* daughters, and *seven* paternal uncles, whose shares of *twenty-four* (the *root*, as they call it, of this case) are *three*, *four*, *sixteen*, and *one*; for the uncles can only take what the others leave. Now by observing the primes and measures, and working according to the rule, we come to 210, which must be multiplied by *twenty-four*, and the product gives the smallest number of parcels, into which SÂAD's estate can be duly divided: the products of that multiplicand (210) by 3, 4, 16, give 630, 840, 3360, which are the allotments of the *wives*, *female ancestors*, and *daughters*; and the allotment of each sharer appears at once from the following proportions:

Persons.		*First Shares.*		MULTIPLICAND.		SHARES OF EACH.
2	:	3	::	210	:	531.
6	:	4	::	210	:	140.
10	:	16	::	210	:	336.

The last act of the *Muselman* judge is to make an actual division of the state †; and we will suppose that LAILA, in the case answered by ABBÁS, had left ZAINEB and ABLA, two sisters of the whole blood, with AMRU, her husband, and HINDA, her mother; and that her property amounted only to *twenty-five* gold *mohrs*: now the *root* of the case is increased, as we have seen, from *six* to *eight*, which is prime to twenty-five; and the products of *two*, the share of each sister, of *three*, the share of the husband, and of *one*, the share of the mother, multiplied by

* Page 530. † Page 331.

by the number of gold *mohrs*, are 50, 75, and 25, which, divided by *eight*, give the following ſhares: to each ſiſter, 6 *mohrs*, 4 *rupees*; to AMRU, 9 *m.* 6 *r.*; to HINDA, 3 *m.* 2 *r.* Had LAILA's eſtate been *fifty* gold *mohrs*, the diſtribution would have been thus:

	M.	R.
ZAINEB, ...	12,	8.
ABLA, ...	12,	8.
AMRU, ...	18,	12.
HINDA, ...	6,	4.

It ſeems needleſs to give examples of the ſimple rules for aſcertaining the dividends of each *claſs*; but the paſſage concerning creditors, at the cloſe of the chapter, is made obſcure by extreme brevity, and requires a ſhort illuſtration. Suppoſe the aſſets of AMRU to be *nine* pieces of gold; his debts, *five* pieces to SÂAD, and *ten* to AHMED; here the aggregate of the debts, *fifteen*, is compoſit to *nine*, and their *meaſures* are *five*, and *three*; ſo that, by the rule before-mentioned of diſtribution among *heirs*, AHMED will receive *ſix*, and SÂAD, *three* pieces; but, had the debtor left *thirteen*, which would have been prime to the amount of both debts, then *fifteen*, ſtanding in the place of the *verification*, as they call it, muſt be the diviſor of the ſeveral products, ariſing from the multiplication of *ten* and *five* into thirteen, and the quotients $8\frac{2}{3}$ and $4\frac{1}{3}$ will be the reſpective dividends of AHMED and SÂAD.

The practice of *ſubtraction** aroſe from the caſe of ABDUR'RAHMAN and his four wives, decided in the reign of OTHMÁN; and the ſection concerning it will be made clear by a fuller explanation of the example in the text. We have ſeen, that the widower is entitled to a *moiety*, the

* Page 531.

the mother to a *third*, and the uncle, to the *reſidue*; ſo that, if LAILA's eſtate be divided into *ſix* parcels, the diſtribution may be made without a fraction: but if the widower agree to keep the *mahr*, or nuptial preſent to his wife, which he had never actually paid, inſtead of his *three ſixths* of the whole, the remainder, after deducting the *mahr*, muſt be divided into *three* parts, of which the mother will have *two*, and the uncle, *one*. So, if the mother agree to take a jewel, or other ſpecifick thing, in lieu of her *two ſixths*; or the uncle, a ſlave or a carriage, in the place of his *ſixth* part, the remainder, which, would be *four* parts in the firſt caſe, and *five* in the ſecond, muſt go to the other claimants in proportion to their ſhares. Again; if AMRU leave his mother FÁTIMA, two ſiſters by the ſame mother, LATÍFA and SOLMA, and the ſon of a paternal uncle, SELÍM; here alſo the inheritance muſt be divided, by the rule, into *ſix* parts: now, if the deceaſed left a female ſlave and thirty gold *mohrs*, and, if SOLMA conſented to keep the ſlave inſtead of her legal ſhare, or a *ſixth*, the remainder of the property muſt then be divided into *five* parcels, ſix gold *mohrs* in *each*, of which FÁTIMA and LATÍFA muſt receive each *one* parcel, and SELÍM, the *three* parcels, which remain. It is obvious, that, if the firſt calculation were made, in the preceding caſes, on a ſuppoſition, that the taker of the ſpecifick thing was dead or incapable of inheriting, there would be either a *defect* or an *exceſs* in ſome of the allotments to the other claimants.

There is no difficulty in the chapter on the *return**, except what ariſes from the *Arabick* idiom, to which the reader is probably by this time habituated; but it is neceſſary to remark, that, although, by the letter of the *Korán* and the ſtrict rules of law, no *return* can be made to the *widower* or *widow*, yet an equitable practice has prevailed, in

* Page 532, 533.

modern

modern times, of *returning* to them *on failure of sharers by blood and of distant kindred.* The last case in the chapter can rarely occur; and the result of the calculation (which fills ten pages in the *Persian* work of *Maulaví* KÁSIM) is, that, of 1440 parcels, the *four* widows take (36 × 5 =) 180; the *nine* daughters (36 × 28 =) 1008; and the *six* female ancestors (36 × 7 =) 252; so that 45 parts go to each *widow*, 112 to each *daughter*, and 42 to each *female ancestor*.

The rights of the *paternal grandfather* have been more disputed than any other point of *Arabian* law; no fewer than *seventy* contradictory decisions having been made concerning them in the reign of OMAR; but the dispute is now settled among the *Sunnis* according to the opinion of ABU HANÍFA; and the chapter on *division* seems to have been inserted merely from respect to ABU YUSUF and MUHAMMED, who dissented on this point from their master*: it is one of the clearest chapters in the *Sirájiyyah*, and will be useful to us, if the question should arise in a family of *Shiâhs*, who follow, no doubt, the opinions of ALI and ZAID. The case called *acdariyya*, which was decided by the son of THÁBIT, and has acquired such celebrity in *Irák*, that it is distinguished among the lawyers of that country by the epithet of *algharrà*, or the *luminous*, is a perspicuous example of the grandfather's division in a *double* ratio with the sister: the conjecture, formerly hazarded by myself, that it was named *acdariyya*, because the rules of inheritance are *disturbed* by it in favour of the grandfather, had occurred, I see, to some *Arabs*, and is mentioned by SHARIF without disapprobation.

It will be necessary to illustrate by examples the chapter on *succession to vested hereditary interests* †: and, first, we may suppose, that ZAID had two wives, named ZAINEB and LATÍFA, and that ZAINEB died

* Page 534, 535.

† Page 536.

possessed

poſſeſſed of ſeparate property, leaving her huſband, her mother ZUHRA, and HINDA, her daughter by a former huſband: now the legal ſhares, in order as the ſharers are named, would be a *fourth*, a *ſixth*, and a *moiety*; ſo that regularly the eſtate ſhould be divided into *twelve* parts, but it is here divided into *four*, becauſe there muſt be a *return* to ZUHRA and HINDA, in the proportion of their ſhares, that is as *one* to *three*; but, when ZAID has taken his *fourth*, the *three* fourths, which remain, cannot be diſtributed in that proportion; and, ſince *three* and *four* are prime to each other, we therefore multiply *four*, conſidered as the number of perſons entitled to a return, into *four*, the denominator of the huſband's *ſhare*, and the ſquare number anſwers the purpoſe of integral diſtribution; for of *ſixteen* parcels ZAID will be entitled to *four*, ZUHRA to *three*, and HINDA to *nine*.

Suppoſe next, that ZAID himſelf dies, before any diſtribution actually made, leaving only LATÍFA before-mentioned, his mother BASÍRA, and his father ÁBID: here *four* parts of the former inheritance having veſted in him, the diſtribution is eaſy; *one* part going to LATÍFA, as her *fourth*, one alſo to BASÍRA, as her *third of the reſidue*, and *two* parts to ÁBID; in exact proportion to their ſeveral claims on his own eſtate.

Thirdly, ſuppoſe HINDA to die before any actual diſtribution, leaving the before-named ZUHRA, her grandmother, ZUBAIDA her daughter, and two ſons, HÁTIF and BASHAR: now ſhe had a *veſted intereſt* in *nine* parts out of the *ſixteen*, and, her own eſtate being diviſible into *ſix* parts, we obſerve, that *nine* and *ſix* are compoſit to each other, or agree, as the *Arabian* phraſe is, *in a third*; ſo that a third of ſix, or *two*, muſt be multiplied into *ſixteen*, and the product *thirty-two* will be the denominator for both caſes; for of *thirty-two* parts *nine* will veſt in ZUHRA (*ſix* as mother to ZAINEB, and *three* as grandmother to HINDA), *twelve* in the two ſons, *three* in ZUBAIDA, and *eight* in ZAID's repre-

ſentatives;

ſentatives; ſince, to aſcertain the ſhare of each individual, the juſt-mentioned ſhares out of *ſixteen* muſt be multiplied by *two*, and thoſe out of *ſix*, by *three*, which is here called the *meaſure* of HINDA's veſted intereſt.

Let us fourthly ſuppoſe, that ZUHRA alſo dies before any diſtribution, leaving her huſband CÂAB, and two brothers CÁLIB and TÁRIF. Now her own eſtate is arranged by *four*, the huſband taking a *moiety*, and each of the reſiduaries *one fourth*; but *four* and *nine* are prime to each other; and *four*, therefore, multiplied by *thirty-two*, produces an *hundred and twenty-eight*, the denominator of both caſes: we muſt then multiply by *four* the ſhares out of *thirty-two*, and by *nine* the ſhares out of *four*, and the products will be lots of the ſeveral claimants; *eight* parcels going to LATÍFA, *ſixteen* to ABID, *eight* to BASIRA, *forty-eight* in moieties to HÁTIF and BASHAR, *twelve* to ZUBAIDA, *eighteen* to CÂAB, and *eighteen* in moieties to CÁLIB and TÁRIF.

We need only add, that, although the concluſion of the chapter before us be obſcured by its extreme conciſeneſs, yet it plainly means, that, "when any number of heirs die ſucceſſively before the diſtribu-"tion, if the *ſhares veſted* in the laſt deceaſed do not quadrate with the "*arrangement* of his own eſtate, we muſt conſider all thoſe, who died "before him, as *one deceaſed heir*, and himſelf as the *ſecond*, and then "work by the preceding rules:" to give more examples would be very eaſy, but the reader would find them inſupportably tedious.

All controverſies on the claims of the *next of kin*, who are neither *ſharers* nor *reſiduaries*, are now at an end *; for it ſeems to be ſettled, that they ſucceed according to the order preſcribed in our text.

* Page 537.

I. On

I. On the *firſt* claſs of diſtant kindred the doctrine of ABU YU'SUF has far more ſimplicity than that of MUHAMMED, in which there is an appearance of intricacy; but an attentive reader will find no difficulty in the caſe reduced to the form of a table, in which the loweſt of the ſix ranks are ſuppoſod to be the claimants of AMRU's eſtate*; he will ſee, that ABU YU'SUF would divide that eſtate into *fifteen* parts, giving *one* to each of the female, and *two*, by the rule in the *Koràn*, to each of the male, deſcendants; but that MUHAMMED would arrange it in *ſixty* parcels, *twenty-four* of which would go to the repreſentatives of the *three* ſons, and *thirty-ſix* to thoſe of the *nine* daughters; due regard being paid to the *double portion* of the male deſcendants, ſo as to bring the ſhares of the *twelve* claimants to the following order from the left hand, *twelve, eight, four*; *nine, three, ſix*; *ſix, two, four*; *three, two, one.* The correctneſs of this method has, it ſeems, obtained it a preference over that of ABU YU'SUF, whoſe practice, however, is followed, on account of its facility, in *Bokhára* and ſome other places; although of the two different traditions from ABU HANI'FA, that reported by MUHAMMED be the more publickly known and the more generally believed.

The reader would be unneceſſarily fatigued, if we were to exhibit every ſtep of the arithmetical proceſs, by which the eſtate of AMRU muſt be diſtributed, according to the opinion of MUHAMMED, between his *great grandſon* by females only, and his *two great granddaughters*, who have the advantage of a male in the line of deſcent†; nor does the ſection concerning the difference of *ſides* require elucidation.

II. On the *ſecond* claſs, or the *grandfathers* and *grandmothers*, who are excluded from *ſhares*, we need only ſum up the doctrine of our author in the words of SHARI'F:—"The degrees in this caſe are either equal or

* Page 539.

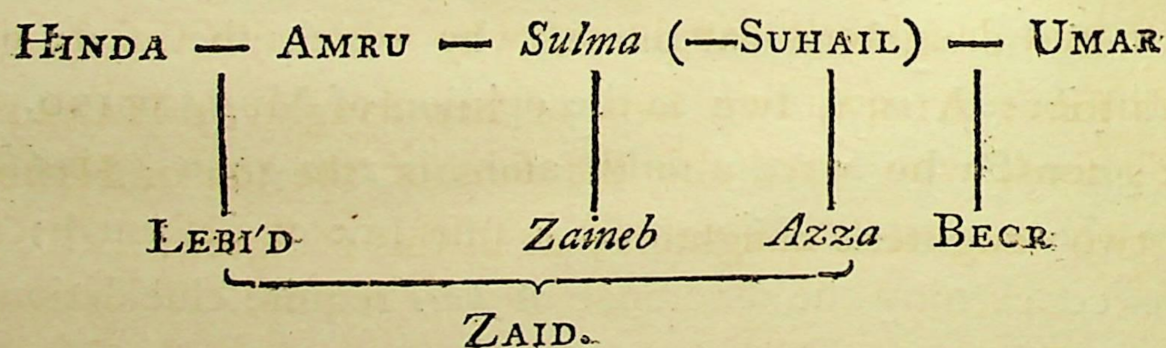
† Page 541.

"unequal;

"unequal; if *unequal*, the nearer is preferred; if *equal*, the preference "is given to the person claiming *through a sharer*; if there be an *equality* "in that respect, the *sides* must be the same or different; if different, "the distribution must be made in *thirds*, the paternal side having a "*double* allotment; if *the same*, the *sexes* of the *roots*, or ancestors, must "agree, or not; if they agree, the estate must be distributed according "to the persons of the *branches*, or claimants; if not, according to the "*first* rank that differs, as in the preceding class*."

III. There seems no difficulty in the chapter † on the third class of distant kindred; but it must be remarked, that although the brothers and sisters by the same *mother only* take equally, according to the *Korân*, without any distinction of sex, yet that exception to the general rule by no means extends to the *issue* of such brothers and sisters.

IV. Although the claims of *uncles* and *aunts*, in three cases, be clearly explained in the text ‡, yet it may not be improper, to subjoin an example from the commentary of *Maulavì* KÁSIM, which the following pedigree will make more intelligible than his dry state of the case:



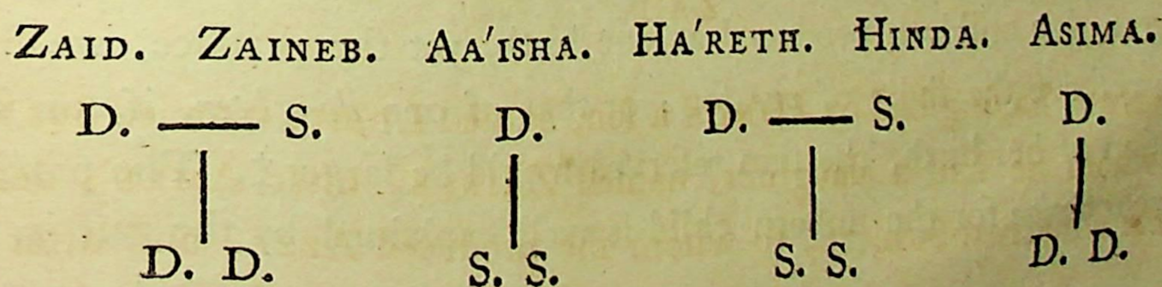
AMRU, having had by HINDA a son, named LEBID, married SULMA, by whom he had a daughter, named ZAINEB: after AMRU's death, SULMA married SUHAIL, to whom she produced AZZA, and after his

* Page 541. † Page 542. ‡ Page 545.

death,

death, ſhe married UMAR, by whom ſhe became the mother of BECR: now ZAID was the ſon of LEBID and AZZA; and he died, leaving no heirs but BECR the brother, by the *ſame mother*, of his mother AZZA, and ZAINEB, who was his *paternal* aunt by the *ſame father* AMRU, and his *maternal* aunt by the *ſame mother* SULMA. In this caſe, the property of ZAID muſt be divided into *nine* parcels, of which the *paternal* aunt will have *two thirds*; and the remaining *third* will go to the *maternal uncle* and *aunt* in the ratio of *two* to *one*; ſo that ZAINEB, in her two characters, will be entitled to *ſeven ninths*.

There ſeems no neceſſity to expatiate on the *children of uncles and aunts*, or on the *couſins*, as we ſhould call them, in different degrees*; becauſe the text will be ſufficiently perſpicuous to thoſe, who perfectly underſtand the preceding ſections: but, ſince a curious caſe is put by SHARIF, I am unwilling to ſuppreſs it; eſpecially as it will throw light on the whole ſubject before us. The *father* of AMRU had a brother, ZAID, and two ſiſters, ZAINEB and AA'ISHA, by the ſame father only: his *mother* alſo had a brother, HA'RETH, and two ſiſters by the ſame father, named HINDA and ASIMA: firſt, his father and mother died; then, all his *uncles* and *aunts*, leaving the following *iſſue*: ZAID left two daughter's daughters, who were alſo the daughters of ZAINEB'S ſons; AISHA, two ſons of her daughter; HA'RETH, two daughter's ſons, who were alſo the ſons of the ſon of HINDA; and ASIMA, two daughter's daughters; as in this pedigree:



* Page 545.

AMRU

Amru himſelf afterwards died, with no heirs but the *grandchildren* of his uncles and aunts: In this caſe Abu Yusuf would have divided the inheritance into *thirty* parts; *twenty* for the *paternal* ſide; that is, *five* for each of the ſons, and as many for each of the daughters, who have a double relation; and *ten* for the *maternal* ſide, or *four* for each of the ſons, who are doubly related, and *one* for each of the daughters: but Mohammed, having divided Amru's eſtate into *thirty-ſix* allotments, would have given *twenty-four* to the paternal, and *twelve* to the material ſide; that is, *ſix* to each of Zaid's granddaughters, as ſuch, and *four* to each of them, as granddaughters of Zaineb; *two* to each of Aáisha's grandſons; *three* to each grandſon of Háreth, as ſuch; and *two* more to each of them, as grandſons of Hinda; while *one thirty-ſixth* part would have gone to each of Asima's female deſcendants. The reaſon of theſe different diſtributions will appear from what has preceded; but the arithmetical proceſſes would fill many pages, and would be thought, I am perſuaded, unneceſſarily prolix.

On the chapter concerning hermaphrodites*, I ſhall make no particular obſervation; ſince monſtrous births are, I truſt, extremely rare in all countries, and the ſubject is too ſhocking to be diſcuſſed without actual *neceſſity*; nor will it anſwer, I imagine, any uſeful purpoſe to relate the old *Arabian* ſtories, and ſtrange opinions of ſome lawyers, concerning the longeſt poſſible time of geſtation †; which is now limited, on the authority of Aáisha, one of Mohammed's wives, to *two years*; and, though the *Muſelmans* have traditionary accounts of *three*, *four*, or even *five* children produced at one birth, yet the practice, we find, is to reſerve the ſhare of *one* ſon; or that of one *daughter*, if, on ſuppoſition of her birth, the ſum reſerved would be larger ‡. The practice of *reſervation* for the unborn child is well explained by the caſe in the

* Page 547. † Page 548. ‡ Page 549, 550.

text,

text, to which we may now proceed; ſince the reſt of the chapter needs no illuſtration; unleſs it be neceſſary to inform the reader, that a widow ought by law to abſtain for a certain time after her huſband's death, from the careſſes of any other man; and, if ſhe freely confeſs that ſhe has not abſtained, it cannot be certain, that her huſband was the father of a child born more than ſix months after his death. Let us then ſuppoſe AMRU to die, leaving a daughter ZAINEB, his mother ASUMA, his father LEBID, and his wife HINDA enſeint*. So that, if a male child be born, AMRU's eſtate ought regularly to be divided into *twenty-four* parts, but, on the birth of a female, into *twenty-ſeven*; becauſe, in the firſt caſe, the *ſhares* are an *eighth*, for the widow, and a *ſixth* for each of the parents; but, in the ſecond, beſides the ſhares juſt mentioned, the daughters would have *two-thirds* between them, and it would be the caſe of *Mimberiyya*†. Now *three* is the *common* meaſure of *twenty-four* and *twenty-ſeven*, and the ſeveral *meaſures* of thoſe numbers are *eight* and *nine*, either of which, multiplied into the other *whole* number, gives *two hundred and ſixteen* for the product; and that, according to what has preceded, is the number of ſhares into which the inheritance muſt be actually divided. In the firſt caſe HINDA would have *twenty-ſeven* ſhares; LEBID and ASUMA, each *thirty-ſix*; the poſthumous ſon *ſeventy-eight*, and ZAINEB, his ſiſter, *thirty-nine*; but, in the ſecond, the widow would have *twenty-four*; and each of the parents, *thirty-two*; while the poſthumous daughter and her ſiſter would divide the remainder between them, each taking *ſixty-four* ſhares. Should *four* poſthumous ſons be born, *ninety-nine* ſhares would go to the widow and both parents; while the remainder would be divided among the children by the rule before mentioned, ZAINEB receiving *thirteen* parts, and each of her brothers, *twenty-ſix*; but, in the caſe of a miſcarriage, the daughter would be entitled to *a hundred and eight* parts,

* Page 550. † Page 527.

or a moiety of the whole estate, and the *nine* parts remaining would go to LEBID as residuary heir.

The time, at which an absent person is presumed in law to be dead, has varied, we see, in different ages*; but the modern practice I understand to be this: if ZAID has been so long absent, that no man can tell whether he be dead or alive, and if *seventy* years have elapsed from the day of his birth, he is presumed to be dead, as to *his own* property, from the end of that term, but, as to his hereditary claims on the property *of another*, from the day of his absence; so that, in the first case, no person, dying within the seventy years, could have inherited any part of *his* estate; nor, in the second, could he inherit from any one, who died after the day, when he first was missed. Though the arrangement of an inheritance, on which an absent person may have a claim, be sufficiently clear from what has just preceded, yet a feigned case in illustration of it will not, perhaps, be thought wholly superfluous. If HINDA then die at *Murshedabád*, leaving AMRU her husband, with two sisters of the whole blood, NÁDIRA and SACÍNA, all residing in that city, and a whole brother ZAID, who has long been absent and unheard of, we must consider what effect his life or his death would have on the inheritance: if he be dead, AMRU must have a *moiety* of the estate, and the sisters *two thirds* between them; and, if he be living, the widower will still have a right to his half, but ZAID will take twice as much as either of the sisters. Now, on the first supposition, the assets of HINDA must be divided, as we have shown, into *seven* shares, of which AMRU must have *three*, and each of the sisters, *two*; but, on the second, into *eight* parts, *four* of which go the husband, and *two* to the brother, while NÁDIRA and SACÍNA can only have *one* a piece; so that the widower has an interest in supposing ZAID alive, and the sisters, in supposing him

* Page 551.

dead:

dead: *fifty-six*, therefore, or the product of *seven* and *eight*, which are *prime* to one another, is the number of shares, into which the estate must be divided; *twenty-four* of them being delivered to AMRU, and *seven* to each of the females, as the least shares to which they can in either event be severally entitled; if ZAID then return to the city, *four* shares more go to AMRU, and *fourteen* are the right of the brother; but, if his death be proved, or presumed by lapse of time, the *eighteen* reserved shares must be divided equally between SACÍNA and NÁDIRA, to complete their *two sevenths*, which the law gives, in that case, to each of them. The *Persian* commentator has added three cases, in one of which the two first divisors of the assets are *composit* to each other; but the operation in all of them is too easy to require an example.

In the sections concerning apostates and prisoners of war*, there seems to be no obscurity; but it is proper to add, that, as the law is now settled, the heirs of an apostate, who were in being at the time of his death, are entitled to their legal shares, whether they were born before or after his apostasy; though a husband or wife cannot succeed to an apostate, because a change of religion is an immediate dissolution of the marriage.

We are now come to the concluding section, which cannot be better illustrated than by two feigned cases from the *Persian* and *Arabian* comments. 1. ZAID and his daughter ABLA were at sea in the same ship, together with BASHAR, his brother's son, and his great nephew AMRU, son of BASHAR: the ship was lost, and all, who were in it, perished; so that which of them first died, could never be clearly ascertained. Now AMRU left behind him a wife and a daughter; and ABLA had an only son: in this case, by the opinion of ABU HANIFAH

* Page 552, 553.

and

and his followers, the four drowned persons are supposed to have perished in the same instant, and their several estates go to their surviving heirs respectively, according to the rules, which have been already explained; but by one of two traditions from ALI, the assets of ZAID being equally divided, and ABLA being supposed to have outlived her father, her son takes one moiety in her right, while the other moiety is conceived at first to have vested in BASHAR, and then in AMRU, between whose widow and daughter it is distributable according to law.
2. KÁSIM and his younger half-brother HASAN were drowned in the same boat, each leaving a mother, a daughter, and a patron, by whom each of them had been manumitted: then, if each of them left *ninety* pieces of gold on shore, the property of each must be severally distributed, according to the HANIFEANS; the daughter of each taking *half*, or *forty-five* pieces; the mother a *sixth*, or *fifteen*, and the manumittor, as residuary, the *thirty* pieces which remain; but according to ALI, the younger brother HASAN being first considered as the survivor, that residue vests in him, and is then distributed, in the just mentioned ratio; *half* of it, or *fifteen*, going to his daughter; a *sixth*, or *five* pieces, to his mother; and *ten*, the residue, to his patron; next, KÁSIM being supposed to have survived, the same rule is applied to him; so that the daughter of each takes on the whole *sixty*; the mother, *twenty*; and the manumittor, *ten* pieces of gold.

قَدْ طُبِعَ هٰذَا الْكِتَابُ الْمُسَمَّى بِالْفَرَائِضِ السِّرَاجِيَّةْ

بِدَارِ الْأَمَارَةِ بِلْدَةِ كَلْكَتَةِ الْمَحْمِيَّهْ وَ ذٰلِكَ بِأَمْرِ

سَرْ وِلِيمْ يُونُسْ الَّذِي هُوَ أَحَدُ حُكَّامِ الْمَحْكَمَةِ الْعَالِيَةِ

السَّلْطَانِيَّةْ

فِي سَنَةِ أَلْفٍ وَ مِائَتَيْنِ وَ وَاحِدٍ مِنَ الْهِجْرَةِ النَّبَوِيَّةْ

N.B. The *Persian* sheets must be placed according to the signatures (from the right hand to the left) so as to begin where an *English* book would end, and to end where that would begin. To follow page 592, vol. iii.



تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ	أَلصَّحِيحُ	أَلسَّقِيمُ
١٨	أَوْأَحَدُهُمَا	أَوأَحَدُهُمَا
١٩	مِنِ ابْنِ	مِنْ ابْنِ
١٩	الْآخَرُ	الْأَخَرُ
٢٠	أَلْمَالُ كُلُّهُ	الْمَالَ كُلَّهُ
٢١	وَنِصْفَ سَهْمٍ إِنْ كَانَ	وَنِصْفُ إِنْ كَانَ
٢٣	ذُكُورَتِهِ	ذَكُورَتِهِ
٢٣	الْآخَرِ	الْأَخَرِ

قَدْ صُحِّحَ هٰذَا الْكِتَابُ بِعَوْنِ اللّٰهِ تَعَالَى الْمَلِكِ الْوَهَّابِ

تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ. أَلصَّحِيحُ . . . . . . أَلسَّقِيمُ . . . .

١٦ . . . . . الْإِنَاثَ . . . . . الْأَثَاثَ . . . .

١٧ . . . . . إِبْنَيْ بِنْتِ بِنْتِ بِنْتٍ . إِبْنَيْنِ بِنْتَ بِنْتَ بِنْتِ .

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١٧ . . . . . بِنْتَيْ بِنْتِ ابْنِ بِنْتٍ . بِنْتَيْنِ بِنْتَ ابْنَ بِنْتَ .

١٧ . . . . . الْأُخَرُ . . . . الْأَخَرُ . . . .

١٧ . . . . . الرِّوَايَتَيْنِ . . . . الرِّوَايَتَيْنِ . . . .

بِنْتِ . . . بِنْتٍ . بِنْتَ . . . بِنْتَ
١٧ . . . . . بِنْتَيْ . بِنْتَيْنِ .
إِبْنِ . . . بِنْتٍ . إِبْنَ . . . بِنْتَ

١٧ . . . . . إِبْنَ - - - بِنْتِ - - - بِنْتٍ إِبْنَ بِنْتَ بِنْتَ . . .

تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ	أَلصَّحِيحُ	أَلسَّقِيمُ
١٥	أَوْلَيْهِمْ	أَوْلَهُمْ
١٥	فَإِنَّهَا	فَانَّهَا
١٦	أَوْكَانَ	أَوكَانَ
١٦	صِفَةَ	صِفَةِ
١٦	أَثْلَاثًا	اِثْلَاثًا
١٦	لِلذَّكَرِ	لِلذَكَرِ
١٦	رَحْمَةُ اللّٰهِ	رَحِمَةُ اللّٰهِ
١٦	أَثْلَاثًا	اِثْلَاثًا
١٦	وَالْإِنَاثُ	وَالْاَنَاثُ

تَصْحِيحُ الْكِتَابِ

عَدَدُ الْأَوْرَاقِ	أَلصَّحِيحُ	أَلسَّقِيمُ
٦	أَعْتَنْقَنَ	اعْتَنْقَنَ
١٢	مَالِكُ	مَالِكَ
١٢	إِنْ وَافَقَ	أَنْ وَافَقَ
١٣	ثُمَّ اضْرِبْ	ثُمَّ أَضْرِبُ
١٣	أُخْتٍ	أَخْتٍ
١٥	أَبَوِي	اَبَوِيَ
١٥	الرَّابِعِ	الرَّابِعُ
١٥	أَنَّ اَقْرَبَ	إِنَّ أَقْرَبَ
١٥	الْمَأْخُوذُ	الْمَأْخُوذُ

مَا تَوَاسَعَا فَهَالُ كُلِّ وَاحِدٍ مِنْهُمْ لِوَرَثَتِهِ الْأَحْيَاءِ وَلَا يَرِثُ

بَعْضُ الْأَمْوَاتِ مِنْ بَعْضٍ هٰذَا هُوَ الْمُخْتَارُ وَقَالَ عَلِيٌّ

وَابْنُ مَسْعُودٍ فِي إِحْدَى الرِّوَايَتَيْنِ عَنْهُمَا بَعْضُهُمْ

يَرِثُ مِنْ بَعْضٍ إِلَّا فِيمَا وَرِثَ كُلُّ وَاحِدٍ مِنْهُمْ مِنْ صَاحِبِهِ

تَمَّتِ الْفَرَائِضُ السِّرَاجِيَّةُ بِعَوْنِ

اللّٰهِ تَعَالَى

تَصْحِيحٌ

فهو فيي بالاجماع وكسب المرتدة جميعا لورثتها المسلمين

بلاخلاف بين اصحابنا رحمهم الله واما المرتد فلايرث

من أحد لامن مسلم ولامن مرتد مثله وكذلك المرتدة

لا ترث من أحد الا اذا ارتد اهل ناحية باجمعهم فحينئذ

يتوارثون

باب الأسير

حكم الأسير كحكم ساير المسلمين في الميراث مالم

يفارق دينه فان فارق دينه فحكمه حكم المرتد فان لم يعلم

ردته ولا حياته ولا موته فحكمه حكم المفقود

فصل في الغرقي والحرقي والهدمي

اذا مات جماعة ولا يدري أيهم مات أولا جعلوا كأنهم

مِن مالهٖ لان المفقود ميت في مالِ غيرِهٖ الاصل فِي تَصْحِيحِ

مسايل المفقودِ ان تصحح المسئلة علي تقدير حياتهٖ ثم

تَصَحّح المسئلة علي تقدِير وفاتهٖ و باقي العمل

مَا ذَكَرْنَا فِي الْحَمل

فَصْلٌ فِي الْمُرْتَدِّ

اِذا مات المرتد او قتل او لحق بدار الحرب وحكم القاضي

بلحوقه فما اكتسبه في حال اسلامه فهو لورثته المسلمين

وَمَا اكْتَسَبَهُ فِي حَالِ الرِّدَّةِ يُوْضَعُ فِي بَيْتِ الْمَالِ عِنْدَ

أبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ وَعِنْدَهُمَا الْكَسْبَانِ جَمِيْعًا لِوَرَثَتِهِ

الْمُسْلِمِيْنَ وَعِنْدَ الشَّافِعِيّ رَحِمَهُ اللّٰهُ اَلْكَسْبَانِ يُوْضَعَانِ

فِي بيتِ المالِ وَمَا اكتسبه بعد اللّحوقِ بِدَارِ الْحَرْبِ

فَهُوَ فَيْءٌ

يَصِحّ موته اويمضي عليه المدة واختلفت الرّوايات في تِلْكَ

الْمُدَّةِ فَفِيْ ظَاهِرِ الرِّوَايَةِ أَنَّه اذا لَمْ يَبْقَ أَحَدٌ مِنْ أَقْرانِه

حُكِم بموتهِ وروي الحسن بن زيادٍ عن ابيحنيفة رحمه اللّٰه

أَنَّ تِلْكَ الْمُدَّةِ مَايَةٌ وَعِشْرُونَ سَنَةً مِنْ يَوْمَ وُلِدَ فِيْهِ وَقَالَ

محمد ماية وعشر سنين وقال ابويوسف ماية وخمس سنين

وَقَالَ بَعْضهم تِسْعونَ سَنَةً وَعَلَيْهِ الْفَتْوَي وَقَالَ بَعْضهم

مَالُ المفقودِ موقوف إلي اجتهادِ الامامِ وموقوف الحكمِ

فِي حَقّ غَيْرِه حَتَّي يُوقَّفُ نَصِيبُه مِنْ مَالِ مُوّرثِه كَمَا فِي

الْحملِ فاذا مضت الْمدّة وَحُكِم بموتِه فماله لِورَثته

الموجودِين عِنْدَ الحكمِ بِموتِه وماكان موقوفا لِاجلِه مِن

مَالِ مُوّرثِه يُرَدّ إلي وَارِثِ مُوّرِثِه الَّذِي وُقِّفَ ذٰلِكَ الْمُوْقُوف

مِنْ

سَهْمًا لِأَنَّ الْمَوْقُوفَ فِي حَقِّهَا نَصِيبُ أَرْبَعَةِ بَنِينَ عِنْدَ

أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ وَإِذَا كَانَ الْبَنُونَ أَرْبَعَةً فَنَصِيبُهَا سَهْمٌ

وَأَرْبَعَةُ أَتْسَاعِ سَهْمٍ مِنْ أَرْبَعَةٍ وَعِشْرِينَ مَضْرُوبٌ فِي تِسْعَةٍ فَصَارَ

ثَلَاثَةَ عَشَرَ سَهْمًا فَهِيَ لَهَا وَالْبَاقِي مَوْقُوفٌ وَهُوَ مِائَةٌ وَخَمْسَةَ

عَشَرَ سَهْمًا فَإِنْ وَلَدَتْ بِنْتًا وَاحِدَةً أَوْ أَكْثَرَ فَجَمِيعُ الْمَوْقُوفِ

لِلْبَنَاتِ وَإِنْ وَلَدَتْ ابْنًا وَاحِدًا أَوْ أَكْثَرَ فَيُعْطَى لِلْمَرْأَةِ وَالْأَبَوَيْنِ

مَا كَانَ مَوْقُوفًا مِنْ نَصِيبِهِمْ وَمَا بَقِيَ يُقْسَمُ بَيْنَ الْأَوْلَادِ

وَإِنْ وَلَدَتْ مَيِّتًا فَيُعْطَى لِلْمَرْأَةِ وَالْأَبَوَيْنِ مَا كَانَ مَوْقُوفًا مِنْ

نَصِيبِهِمْ وَلِلْبِنْتِ إِلَى تَمَامِ النِّصْفِ فَهُوَ خَمْسَةٌ وَتِسْعُونَ سَهْمًا

وَالْبَاقِي لِلْأَبِ وَهُوَ تِسْعَةُ أَسْهُمٍ لِأَنَّهُ عَصَبَةٌ

بَابُ الْمَفْقُودِ

اَلْمَفْقُودُ حَيٌّ فِي مَالِهِ حَتَّى لَا يَرِثُ مِنْهُ أَحَدٌ وَيُوقَفُ مَالُهُ حَتَّى

وَاحِدٍ مِنَ الْوَرَثَةِ مَا كَانَ مَوْقُوفًا مِنْ نَصِيبِهِ كَمَا إِذَا تَرَكَ بِنْتًا

وَأَبَوَيْنِ وَامْرَأَةً حَامِلَةً فَالْمَسْئَلَةُ مِنْ أَرْبَعَةٍ وَعِشْرِينَ عَلَى

تَقْدِيرِ أَنَّ الْحَمْلَ ذَكَرٌ وَمِنْ سَبْعَةٍ وَعِشْرِينَ عَلَى تَقْدِيرِ أَنَّهُ

أُنْثَى وَبَيْنَ عَدَدَيْ تَصْحِيحِ الْمَسْئَلَتَيْنِ تَوَافُقٌ بِالثُّلُثِ

فَإِذَا ضَرَبَ وَفْقَ أَحَدِهِمَا فِي جَمِيعِ الْآخَرِ صَارَ الْحَاصِلُ مِائَتَيْنِ

وَسِتَّةَ عَشَرَ سَهْمًا وَمِنْهَا تَصِحُّ الْمَسْئَلَةُ وَعَلَى تَقْدِيرِ ذُكُورَتِهِ

لِلْمَرْأَةِ سَبْعَةٌ وَعِشْرُونَ وَلِكُلِّ وَاحِدٍ مِنَ الْأَبَوَيْنِ سِتَّةٌ

وَثَلَاثُونَ وَعَلَى تَقْدِيرِ الْأُنُوثَةِ لِلْمَرْأَةِ أَرْبَعَةٌ وَعِشْرُونَ وَلِكُلِّ

وَاحِدٍ مِنَ الْأَبَوَيْنِ اثْنَانِ وَثَلَاثُونَ فَيُعْطَى لِلْمَرْأَةِ أَرْبَعَةٌ

وَعِشْرُونَ وَيُوقَفُ مِنْ نَصِيبِهَا ثَلَاثَةُ أَسْهُمٍ وَيُوقَفُ مِنْ نَصِيبِ

كُلِّ وَاحِدٍ مِنَ الْأَبَوَيْنِ أَرْبَعَةُ أَسْهُمٍ وَيُعْطَى لِلْبِنْتِ ثَلَاثَةَ عَشَرَ

سَهْمًا

الحمل ذكر وعلي تقدير انه انثي ثم تنظر بين تصحيح

المسئلتين فان توافقا فاضرب وفق احديهما في جميع

الاخري وان تباينا فاضرب كل احديهما في جميع الاخري

فالحاصل تصحيح المسئلة ثم اضرب نصيب من كان له شيي

من مسئلة ذكورته في مسئلة انوثته أو في وفقها ثم من كان

له شيي من مسئلة أنوثته في مسئلة ذكورته او في وفقها

كما ذكرنا في الخنثي ثم انظر في الحاصلين من الضرب

أيهما أقل يعطي لذلك الوارث والفضل بينهما موقوف من

نصيب ذلك الوارث فاذا ظهر الحمل فان كان مستحقا

لجميع الموقوف فيها وان كان مستحقا للبعض فياخذ

ذلك البعض والباقي مقسوم بين الورثة فيعطي لكل

واحد

وَلَمْ تَكُنِ الْمَرْأَةُ أَقَرَّتْ بِانْقِضَاءِ الْعِدَّةِ يَرِثُ وَيُورَثُ عَنْهُ وَإِنْ
جَاءَتْ بِالْوَلَدِ لِأَكْثَرِ مِنْ أَكْثَرِ مُدَّةِ الْحَمْلِ لَا يَرِثُ وَلَا يُورَثُ
عَنْهُ وَإِنْ كَانَ الْحَمْلُ مِنْ غَيْرِهِ وَجَاءَتْ بِالْوَلَدِ لِسِتَّةِ أَشْهُرٍ أَوْ
أَقَلَّ يَرِثُ وَإِنْ جَاءَتْ بِالْوَلَدِ لِأَكْثَرِ مِنْ أَقَلِّ مُدَّةِ الْحَمْلِ
لَا يَرِثُ وَطَرِيقُ مَعْرِفَةِ حَيٰوةِ الْحَمْلِ وَقْتَ الْوِلَادَةِ أَنْ يُوجَدَ
مِنْهُ مَا يُعْلَمُ بِهِ الْحَيٰوةُ كَصَوْتٍ أَوْ عُطَاسٍ أَوْ بُكَاءٍ أَوْ ضَحِكٍ أَوْ
تَحْرِيكِ عُضْوٍ فَإِنْ خَرَجَ أَقَلُّ الْوَلَدِ ثُمَّ مَاتَ لَا يَرِثُ وَإِنْ خَرَجَ
أَكْثَرُهُ ثُمَّ مَاتَ يَرِثُ فَإِنْ خَرَجَ الْوَلَدُ مُسْتَقِيمًا فَالْمُعْتَبَرُ
صَدْرُهُ أَعْنِي إِذَا خَرَجَ صَدْرُهُ كُلُّهُ يَرِثُ وَإِنْ خَرَجَ مَنْكُوسًا
فَالْمُعْتَبَرُ سُرَّتُهُ الْأَصْلُ فِي تَصْحِيحِ مَسَائِلِ الْحَمْلِ أَنْ
تُصَحَّحَ الْمَسْئَلَةُ عَلَى تَقْدِيرَيْنِ أَعْنِي عَلَى تَقْدِيرِ أَنَّ

الْحَمْلَ

سِنِيْنَ وَعِنْدَ الشَّافِعِيِّ رَحِمَهُ اللّٰهُ أَرْبَعُ سِنِيْنَ وَعِنْدَ الزُّهْرِيِّ

رَحِمَهُ اللّٰهُ سبع سِنِيْنَ و اقلها سِتَّة اشهرٍ و يوقف لِلحَمْل

عِنْدَ أَبِي حَنِيْفَةَ رَحِمَهُ اللّٰهُ نَصِيْبُ أَرْبَعَةِ بَنِيْنَ أَوْ نَصِيْبُ أَرْبَعِ

بَنَاتٍ أَيُّهُمَا أَكْثَرُ وَيُعْطِي لِبَقِيَّةِ الْوَرَثَةِ اَقَلَّ الْأَنْصِبَاءِ وَعِنْدَ

مُحَمَّدٍ رَحِمَهُ اللّٰهُ يوقف نَصِيبُ ثَلَاثَةِ بَنِيْن اوثلاثِ بَنَاتِ

أَيُّهُمَا أَكْثَرُ رَوَاهُ عَنْهُ لَيْثُ ابْنُ سَعْدٍ رَضِيَ اللّٰهُ عَنْهُ وَفِي رِوَايَةٍ

أُخْرَى نَصِيْبُ ابْنَيْنِ وَاِحْدَى الرِّوَايَتَيْنِ عَنْ أَبِي يُوْسُفَ

رَحِمَهُ اللّٰهُ رَوَاهُ عنه هِشَام وروى الْخَصَّاف عن اَبِي يوسُفَ

رَحِمَهُ اللّٰهُ أَنَّهُ يُوَقَّفُ نَصِيْبُ ابْنٍ وَاحِدٍ أَوْ بِنْتٍ وَاحِدَةٍ وَعَلَيْهِ

الْفَتْوَى وَيُؤْخَذُ الْكَفِيْلُ عَلَى قَوْلِهِ وَإِنْ كَانَ الْحَمْلُ مِنَ

الْمَيِّتِ وَجَاءَتْ بِالْوَلَدِ لِتَمَامِ أَكْثَرِ مُدَّةِ الْحَمْلِ او اقلّ مِنْهَا

وَلَمْ

مُحَمَّدٌ رَحِمَهُ اللّٰهُ يَاخُذُ الْخُنْثٰي خُمُسِي الْمَالِ إِنْ كَانَ ذَكَرًا

وَرُبْعَ الْمَالِ اِنْ كَانَ أُنْثَي فَيَأْخُذُ نِصْفَ النَّصِيبَيْنِ وَذٰلِكَ

خُمُسٌ وَثُمُنٌ بِاعْتِبَارِ الْحَالَيْنِ وَتَصِحُّ مِنْ اَرْبَعِينَ وَهُوَ

الْمُجْتَمِعُ مِنْ ضَرْبِ أَحَدِ الْمَسْئَلَتَيْنِ وَاهِيَ الْاَرْبَعَةُ

فِي الْاُخْرَي وَهِيَ الْخَمْسَةُ ثُمَّ الْمَبْلَغُ فِي الْحَالَتَيْنِ فَمَنْ

كَانَ لَهُ شَيْئٌ مِنَ الْخَمْسَةِ فَمَضْرُوبٌ فِي الْاَرْبَعَةِ وَمَنْ كَانَ لَهُ

شَيْئٌ مِنَ الْاَرْبَعَةِ فَمَضْرُوبٌ فِي الْخَمْسَةِ فَصَارَ لِلْخُنْثٰي

ثَلَاثَةَ عَشَرَ وَلِلْاِبْنِ ثَمَانِيَةَ عَشَرَ وَلِلْبِنْتِ تِسْعَةُ أَسْهُمٍ

بَابٌ فِي الْحَمْلِ

أَكْثَرُ مُدَّةِ الْحَمْلِ سَنَتَانِ عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ

وَأَصْحَابِهِ وَعِنْدَ لَيْثِ بْنِ سَعْدٍ الْفَهْمِيِّ رَحِمَهُ اللّٰهُ ثَلَاثُ

سِنِيْنَ

رَضِيَ اللّٰهُ عَنْهُمْ وَعَلَيْهِ الْفَتْوَى كَمَا اِذَا تَرَكَ اِبْنًا وَبِنْتًا وَخُنْثَى

فَلِلْخُنْثَى نَصِيبُ بِنْتٍ لِاَنَّهُ مُتَيَقَّنٌ وَعِنْدَ عَامِرٍ الشَّعْبِي

وَهُوَ قَوْلُ ابْنِ عَبَّاسٍ رَضِيَ اللّٰهُ عَنْهُمَا لِلْخُنْثَى نِصْفُ

النَّصِيبَيْنِ بِالْمُنَازَعَةِ وَاخْتَلَفَا فِي تَخْرِيجِ قَوْلِ الشَّعْبِي قَالَ

اَبُوْيُوسُفَ لِلْاِبْنِ سَهْمٌ وَلِلْبِنْتِ نِصْفُ سَهْمٍ وَلِلْخُنْثَى ثَلَاثَةُ

اَرْبَاعِ سَهْمٍ لِاَنَّ الْخُنْثَى يَسْتَحِقُّ سَهْمًا اِنْ كَانَ ذَكَرًا وَ

نِصْفُ اِنْ كَانَ اُنْثَى وَهٰذَا مُتَيَقَّنٌ فِي اَخْذِ نِصْفِ مَجْمُوعِ

النَّصِيبَيْنِ أَوْ نَقُولُ يَأْخُذُ النِّصْفَ الْمُتَيَقَّنِ مَعَ نِصْفِ

النِّصْفِ الْمُتَنَازَعِ فِيْهِ فَصَارَ لَهُ ثَلَاثَةُ اَرْبَاعِ سَهْمٍ لِأَنَّهُ يَعْتَبِرُ

السَّهْمَ وَالْعَوْلَ وَتَصِحُّ مِنْ تِسْعَةٍ اَوْنَقُوْلُ لِلْاِبْنِ سَهْمَانِ وَلِلْبِنْتِ

سَهْمٌ وَلِلْخُنْثَى نِصْفُ النَّصِيبَيْنِ وَهُوَ سَهْمٌ وَنِصْفُ سَهْمٍ وَقَالَ

مُحَمَّدٌ

لِأَبٍ لٰكِن الثُّلُثَيْنِ لِمَنْ يَدْلِي بِقَرَابَةِ الأَبِ فَيُعْتَبَرُ فِيهِمْ قُوَّةُ الْقَرَابَةِ ثُمَّ وَلَدُ الْعَصَبَةِ وَالثُّلُثُ لِمَنْ يَدْلِي بِقَرَابَةِ الْأُمِّ وَيُعْتَبَرُ فِيهِمْ قُوَّةُ الْقَرَابَةِ ثُمَّ عِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللّٰهُ مَا أَصَابَ كُلَّ فَرِيقٍ يُقْسَمُ عَلَي أَبْدَانِ فُرُوعِهِمْ مَعَ اعْتِبَارِ عَدَدِ الْجِهَاتِ فِي الْفُرُوعِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللّٰهُ يُقْسَمُ الْمَالُ عَلَي أَوَّلِ بَطْنٍ اخْتَلَفَ مَعَ اعْتِبَارِ عَدَدِ الْفُرُوعِ وَالْجِهَاتِ فِي الْأُصُولِ كَمَا فِي الصِّنْفِ الْأَوَّلِ ثُمَّ يَنْتَقِلُ هٰذَا الْحُكْمُ إِلَي جِهَةِ عُمُومَةِ أَبَوَيْهِ وَخُؤُولَتِهِمَا ثُمَّ إِلَي أَوْلَادِهِمْ ثُمَّ إِلَي جِهَةِ عُمُومَةِ أَبَوَيْ أَبَوَيْهِ وَخُؤُولَتِهِمَا ثُمَّ إِلَي أَوْلَادِهِمْ كَمَا فِي الْعَصَبَاتِ

بَابُ الْخُنْثَي

لِلْخُنْثَي الْمُشْكِلِ أَقَلُّ النَّصِيبَيْنِ أَعْنِي أَسْوَءَ الْحَالَتَيْنِ عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ وَأَصْحَابِهِ وَهُوَ قَوْلُ عَامَّةِ الصَّحَابَةِ

الْعَمِّ وَابْنِ الْعَمَّةِ كِلَاهُمَا لِأَبٍ وَأُمٍّ أَوْ لِأَبٍ الْمَالُ كُلُّهُ لِبِنْتِ
الْعَمِّ وَإِنْ كَانَ أَحَدُهُمَا لِأَبٍ وَأُمٍّ وَالْآخَرُ لِأَبٍ كَانَ الْمَالُ كُلُّهُ
لِمَنْ كَانَتْ لَهُ قُوَّةُ الْقَرَابَةِ فِيْ ظَاهِرِ الرِّوَايَةِ قِيَاسًا عَلَي
خَالَةٍ لِأَبٍ مَعَ كَوْنِهَا وَلَدَ ذِي الرَّحِمِ تَكُوْنُ هِيَ أَوْلَي
لِقُوَّةِ الْقَرَابَةِ مِنَ الْخَالَةِ لِأُمٍّ مَعَ كَوْنِهَا وَلَدَ الْوَارِثِ لِأَنَّ التَّرْجِيْحَ
بِمَعْنًي فِيْهِ وَهُوَ قُوَّةُ الْقَرَابَةِ أَوْلَي مِنَ التَّرْجِيْحِ فِيْ غَيْرِهِ وَهُوَ
الْإِدْلَاءُ بِالْوَارِثِ وَقَالَ بَعْضُهُمْ الْمَالُ كُلُّهُ لِبِنْتِ الْعَمِّ لِأَبٍ لِأَنَّهَا
وَلَدُ الْعَصَبَةِ وَإِنِ اسْتَوَوْا فِي الْقُرْبِ وَلٰكِنِ اخْتَلَفَ حَيِّزُ قَرَابَتِهِمْ
لَا اعْتِبَارَ هٰهُنَا لِقُوَّةِ الْقَرَابَةِ وَلَا لِوَلَدِ الْعَصَبَةِ فِيْ ظَاهِرِ الرِّوَايَةِ
قِيَاسًا عَلَي عَمَّةٍ لِأَبٍ وَأُمٍّ مَعَ كَوْنِهَا ذَاتَ الْقَرَابَتَيْنِ وَوَلَدُ الْوَارِثِ
مِنَ الْجِهَتَيْنِ وَأُمُّهَا ذَاتُ فَرْضٍ لَيْسَتْ هِيَ بِأَوْلَي مِنَ الْخَالَةِ

لِأَبٍ

لِأَبٍ وَأُمٍّ أَوْ لِأَبٍ أَوْ لِأُمٍّ فَإِنْ كَانَ حَيِّزُ قَرَابَتِهِمْ مُخْتَلِفًا فَلَا اعْتِبَارَ لِقُوَّةِ الْقَرَابَةِ كَعَمَّةٍ لِأَبٍ وَأُمٍّ وَخَالَةٍ لِأُمٍّ أَوْ خَالَةٍ لِأَبٍ وَأُمٍّ وَعَمَّةٍ لِأُمٍّ فَالثُّلُثَانِ لِقَرَابَةِ الْأَبِ وَهُوَ نَصِيبُ الْأَبِ وَالثُّلُثُ لِقَرَابَةِ الْأُمِّ وَهُوَ نَصِيبُ الْأُمِّ ثُمَّ مَا أَصَابَ كُلَّ فَرِيقٍ يُقْسَمُ بَيْنَهُمْ كَمَا لَوِ اتَّحَدَ حَيِّزُ قَرَابَتِهِمْ

فَصْلٌ فِي أَوْلَادِهِمْ وَأَحْكَامِهِمْ

اَلْحُكْمُ فِيهِمْ كَالْحُكْمِ فِي الصِّنْفِ الْأَوَّلِ أَعْنِي أَوْلَاهُمْ بِالْمِيرَاثِ أَقْرَبُهُمْ إِلَى الْمَيِّتِ مِنْ أَيِّ جِهَةٍ كَانَ وَإِنِ اسْتَوَوْا فِي الْقُرْبِ وَكَانَ حَيِّزُ قَرَابَتِهِمْ مُتَّحِدًا فَمَنْ كَانَ لَهُ قُوَّةُ الْقَرَابَةِ فَهُوَ أَوْلَى بِالْإِجْمَاعِ وَإِنِ اسْتَوَوْا فِي الْقُرْبِ وَالْقَرَابَةِ وَكَانَ حَيِّزُ قَرَابَتِهِمْ مُتَّحِدًا فَوَلَدُ الْعَصَبَةِ أَوْلَى مِمَّنْ لَا يَكُونُ كَبِنْتِ

الْعَمِّ

بنت ابن اخ لام	بنت ابن اخ لاب	بنت ابن اخ لاب وام

المال كله لبنت ابن الاخ لاب وام بالاتفاق لانها ولد العصبة ولها ايضا قوة القرابة

فصل في الصنف الرابع

الحكم فيهم انه اذا انفرد واحد منهم استحق المال كله لعدم المزاحم واذا اجتمعوا وكان حيز قرابتهم متحدا كالعمات والاعمام لام او الاخوال والخالات فالاقوى منهم اولى بالاجماع اعني من كان لاب وام اولى ممن كان لاب ومن كان لاب اولى ممن كان لام ذكورا كانوا او اناثا وان كانوا ذكورا واناثا واستوت قرابتهم فللذكر مثل حظ الانثيين كعم وعمة كلاهما لام او خال وخالة كلاهما لاب

مبـ

اخ لاب وام اخ لاب اخ لام اخت لاب وام اخت لاب اخت لام
بنت بنت بنت ابن بنت ابن بنت ابن بنت

عِنْدَ اَبِي يُوْسُفَ يُقْسَمُ كُلُّ الْمَالِ بَيْنَ فُرُوْعِ بَنِي الْأَعْيَانِ ثُمَّ بَيْنَ فُرُوْعِ بَنِي الْعَلَّاتِ ثُمَّ بَيْنَ فُرُوْعِ بَنِي الْأَخْيَافِ لِلذَّكَرِ مِثْلُ حَظِّ الانثيين اَرباعا بِاعتبار الابدانِ وعِند محمدٍ رحمه اللّٰه يُقْسَمُ ثُلُثُ الْمَالِ بَيْنَ فُرُوْعِ بَنِي الْأَخْيَافِ عَلَي التَّسْوِيَةِ أَثْلَاثًا بِاعْتِبَارِ اسْتِوَاءِ أُصُوْلِهِمْ فِيْ قِسْمَةِ الْأٰبَاءِ وَالْبَاقِيْ بَيْنَ فُرُوْعِ بَنِي الْأَعْيَانِ أَنْصَافًا بِاعْتِبَارِ عَدَدِ الْفُرُوْعِ فِي الْأُصُوْلِ نِصْفُهُ لِبِنْتِ الْأَخِ نَصِيْبُ أَبِيْهَا وَالنِّصْفُ الْأُخْرَيَيْنِ وَلَدَي الْأُخْتِ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ بِاعْتِبَارِ الْأَبْدَانِ وَتَصِحُّ مِنْ تِسْعَةٍ وَلَوْ تَرَكَ ثَلَاثَ بَنَاتِ بَنِي إِخْوَةٍ مُتَفَرِّقِيْنَ بِهٰذِهِ الصُّوْرَةِ

مبـ

باعتبار الأصول وإن استووا في القرب وليس فيهم ولد عصبة

أو كان كلهم أولاد العصبات أو كان بعضهم أولاد العصبات

وبعضهم اولاد اصحاب الفرائض واختلفت قرابتهم

فابويوسف رحمه الله يعتبر الاقوي ومحمد رحمه الله يقسم

المال علي الاخوة والأخوات نصفين مع اعتبار عدد الفروع

والجهات في الاصول فما اصاب كل فريق يقسم بين فروعهم

كما في الصنف الاول كبنت بنت الأخت لأب وأم اولي من

ابن بنت الأخ لأب عند أبي يوسف رحمه الله لقوة القرابة

وعند محمد رحمه الله يقسم المال بينهما نصفين باعتبار

الأصول كما إذا ترك ثلاث بنات اخوة متفرقين وثلاث

بنين وثلاث بنات اخوات متفرقات بهذه الصورة

مبـــــــــــــــ

الْأَوَّلِ وَإِنِ اخْتَلَفَتْ قَرَابَتُهُمْ فَالثُّلُثَانِ لِقَرَابَةِ الْأَبِ وَهُوَ نَصِيبُ الْأَبِ وَالثُّلُثُ لِقَرَابَةِ الْأُمِّ وَهُوَ نَصِيبُ الْأُمِّ ثُمَّ مَا أَصَابَ كُلَّ فَرِيقٍ يُقْسَمُ بَيْنَهُمْ كَمَا لَوِ اتَّحَدَتْ قَرَابَتُهُمْ .

فَصْلٌ فِي الصِّنْفِ الثَّالِثِ

اَلْحُكْمُ فِيهِمْ كَالْحُكْمِ فِي الصِّنْفِ الْأَوَّلِ أَعْنِي أَوْلَاهُمْ بِالْمِيرَاثِ أَقْرَبُهُمْ إِلَى الْمَيِّتِ وَإِنِ اسْتَوَوْا فِي الْقُرْبِ فَوَلَدُ الْعَصَبَةِ أَوْلَى مِنْ وَلَدِ ذَوِي الْأَرْحَامِ كَبِنْتِ ابْنِ أَخٍ وَابْنِ بِنْتِ أُخْتٍ كِلَاهُمَا لِأَبٍ وَأُمٍّ أَوْ لِأَبٍ أَوْ أَحَدُهُمَا لِأَبٍ وَأُمٍّ وَالْآخَرُ لِأَبٍ الْمَالُ كُلُّهُ لِبِنْتِ ابْنِ الْأَخِ لِأَنَّهَا وَلَدُ الْعَصَبَةِ وَلَوْ كَانَ لِأُمٍّ بَيْنَهُمَا لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ عِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللهُ أَثْلَاثًا بِاعْتِبَارِ الْأَبْدَانِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللهُ أَنْصَافًا

بِاعْتِبَارِ

فَصْلٌ فِي الصِّنْفِ الثَّانِي

أَوْلَاهُمْ بِالْمِيْرَاثِ أَقْرَبُهُمْ إِلَي الْمَيِّتِ مِنْ أَيِّ جِهَةٍ كَانَ وَعِنْدَ الْاِسْتِوَاءِ فِي دَرَجَاتِ الْقُرْبِ فَمَنْ كَانَ يَدْلِي إِلَي الْمَيِّتِ بِوَارِثٍ فَهُوَ أَوْلَي عِنْدَ أَبِي سُهَيْلٍ الْفَرَائِضِي وَ أَبِي فُضَيْلٍ الْخَصَّافِ وَعَلِيِّ ابْنِ عِيْسَي الْبَصْرِيِّ وَلَا تَفْضِيْلَ لَهُ عِنْدَ أَبِي سُلَيْمَانَ الْجُرْجَانِيِّ وَأَبِي عَلِيٍّ الْبُسْتِيِّ وَإِنِ اسْتَوَتْ مَنَازِلُهُمْ وَلَيْسَ فِيْهِمْ مَنْ يَدْلِي بِوَارِثٍ أَوْ كَانَ كُلُّهُمْ يَدْلُوْنَ بِوَارِثٍ فَإِنِ اتَّفَقَتْ صِفَةُ مَنْ يَدْلُوْنَ وَاتَّحَدَتْ قَرَابَتُهُمْ فَالْقِسْمَةُ عَلَي أَبْدَانِهِمْ وَإِنِ اخْتَلَفَتْ صِفَةُ مَنْ يَدْلُوْنَ بِهِمْ يُقْسَمُ الْمَالُ عَلَي أَوَّلِ بَطْنٍ اخْتَلَفَ كَمَا فِي الصِّنْفِ الْأَوَّلِ

مُحَمَّدٌ رَحِمَهُ اللّٰهُ يَعْتَبِرُ الْجِهَاتِ فِي الْاُصُولِ كَمَا إِذَا تَرَكَ بِنْتَيْ بِنْتِ بِنْتٍ وَهُمَا أَيْضًا بِنْتَا ابْنِ بِنْتٍ وَابْنَ بِنْتِ بِنْتٍ بِهٰذِهِ الصُّورَةِ

صورة

بِنْتٌ	بِنْتٌ	بِنْتٌ
بِنْتٌ	ابْنٌ	بِنْتٌ
	بِنْتَيْنِ	ابْنٌ

عِنْدَ أَبِي يُوسُفَ الْمَالُ بَيْنَهُمْ أَثْلَاثًا وَصَارَ الْمَيِّتُ كَأَنَّهُ تَرَكَ أَرْبَعَ بَنَاتٍ وَابْنًا فَيَكُونُ ثُلُثَاهُ لِلْبِنْتَيْنِ وَثُلُثُهُ لِلْإِبْنِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللّٰهُ الْمَالُ بَيْنَهُمْ عَلَى ثَمَانِيَةٍ وَعِشْرِينَ سَهْمًا لِلْبِنْتَيْنِ اثْنَانِ وَعِشْرُونَ سَهْمًا سِتَّةَ عَشَرَ مِنْ قِبَلِ أَبِيهِمَا وَسِتَّةُ أَسْهُمٍ مِنْ قِبَلِ أُمِّهِمَا وَلِلْإِبْنِ سِتَّةُ أَسْهُمٍ مِنْ قِبَلِ أُمِّهِ

فَصْلٌ

ابْنِ الْبِنْتِ اذْهِيَ نَصِيْبُ جَدِّهِمَا وَثَلَاثَةُ أَسْبَاعِهِ وَهُوَ

نَصِيْبُ الْبِنْتَيْنِ يُقْسَمُ عَلَي وَلَدَيْهِمَا اعْنِي فِي الْبَطْنِ

الثَّالِثِ انْصَافًا نِصْفُهُ لِبِنْتِ ابْنِ بِنْتِ الْبِنْتِ نَصِيْبُ

اَبِيْهَا وَالنِّصْفُ الْآخَرُ لِابْنَيْ بِنْتِ بِنْتِ الْبِنْتِ نَصِيْبُ أُمِّهِمَا

وَتَصِحُّ مِن ثَمَانِيَةٍ وَعِشْرِيْنَ وَقَوْلُ مُحَمَّدٍ رَحِمَهُ اللّٰهُ اشْهَرُ

الرِّوَايَتَيْنِ عَنْ اَبِيْحَنِيفَةَ رَحِمَهُ اللّٰهُ فِيْ جَمِيْعِ اَحْكَامِ

ذَوِي الْاَرْحَامِ وَهُوَ قَوْلُ اَبِيْ يُوْسُفَ الْأَوَّلُ ثُمَّ رَجَعَ فَقَالَ

لَاعِبْرَةَ لِلْأُصُوْلِ أَلْبَتَّةَ

نَصْلٌ

عُلَمَاؤُنَا رَحِمَهُمُ اللّٰهُ يَعْتَبِرُوْنَ الْجِهَاتِ فِي التَّوْرِيْثِ غَيْرَانَّ

اَبَا يُوْسُفَ رَحِمَهُ اللّٰهُ يَعْتَبِرُ الْجِهَاتِ فِي اَبْدَانِ الْفُرُوْعِ وَ

مُحَمَّدٌ

وكذلك محمد رحمه الله يأخذ الصفة من الأصل حالة

القسمة والعدد من الفروع كما إذا ترك ابني بنت بنت

بنت وبنت ابن بنت بنت وبنتي بنت ابن بنت بهذه الصورة

بنت	بنت	بنت
بنت	بنت	ابن
بنت	ابن	بنت
ابنين	بنت	بنتين

عند أبي يوسف رحمه الله يقسم المال بين الفروع أسباعًا

باعتبار أبدانهم وعند محمد رحمه الله يقسم المال على

أعلى الخلاف أعني في البطن الثاني أسباعًا باعتبار

عدد الفروع في الأصول فعنده أربعة أسباعه لبنتي بنت

ابن

وَكَذٰلِكَ عِنْدَ مُحَمَّدٍ رَحِمَهُ اللّٰهُ اِذَا كَانَ اَوْلَادُ الْبَنَاتِ

مُخْتَلِفَةً يُقَسَّمُ الْمَالُ عَلَي اَوَّلِ بَطْنٍ اخْتَلَفَ فِي الْاُصُولِ

ثُمَّ يُجْعَلُ الذُّكُورُ طَآيِفَةً وَالْاِنَاثُ طَآيِفَةً اُخْرَي بَعْدَ الْقِسْمَةِ

فَمَا اَصَابَ الذُّكُورَ يُجْمَعُ وَيُقَسَّمُ عَلَي اَعْلَي الْخِلَافِ الَّذِي

وَقَعَ فِي أَوْلَادِهِمْ وَكَذٰلِكَ مَا أَصَابَ الْاِنَاثَ وَهٰكَذَا يُعْمَلُ

اِلَي أَنْ يَنْتَهِي بِهٰذِهِ الصُّورَةِ

بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	اِبْنٌ	اِبْنٌ
بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ
بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	اِبْنٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ
بِنْتٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	اِبْنٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ
بِنْتٌ	بِنْتٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	بِنْتٌ
بِنْتٌ	اِبْنٌ	بِنْتٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	اِبْنٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ	بِنْتٌ

وَكَذٰلِكَ

يَعْتَبِرُ أَبْدَانَ الْفُرُوعِ إِنِ اتَّفَقَتْ صِفَةُ الْأُصُولِ مُوَافِقًا لَهُمَا

وَيَعْتَبِرُ أَبْدَانَ الْأُصُولِ إِنِ اخْتَلَفَتْ صِفَاتُهُم وَيُعْطِي الْفُرُوعَ

مِيرَاثَ الْأُصُولِ مُخَالِفًا لَهُمَا كَمَا إِذَا تَرَكَ ابْنَ بِنْتٍ وَبِنْتَ بِنْتٍ

عِنْدَهُمَا الْمَالُ بَيْنَهُمَا لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ بِاعْتِبَارِ

الْأَبْدَانِ وَعِنْدَ مُحَمَّدٍ رَحِمَهُ اللَّهُ كَذٰلِكَ لِأَنَّ صِفَةَ الْأُصُولِ

مُتَّفِقَةٌ وَلَوْ تَرَكَ بِنْتَ ابْنِ بِنْتٍ وَابْنَ بِنْتِ بِنْتٍ عِنْدَهُمَا

الْمَالُ بَيْنَ الْفُرُوعِ أَثْلَاثًا بِاعْتِبَارِ الْأَبْدَانِ ثُلُثَاهُ لِلذَّكَرِ

وَثُلُثُهُ لِلْأُنْثَى وَعِنْدَ مُحَمَّدٍ رَحْمَةُ اللَّهِ عَلَيْهِ الْمَالُ بَيْنَ

الْأُصُولِ أَعْنِي فِي الْبَطْنِ الثَّانِي أَثْلَاثًا ثُلُثَاهُ لِبِنْتِ ابْنِ

الْبِنْتِ نَصِيبُ أَبِيهَا وَثُلُثُهُ لِابْنِ بِنْتِ الْبِنْتِ نَصِيبُ أُمِّهِ

وَكَذٰلِكَ

فَرْعِهِ وَفَرْعُهُ أَوْلَى مِنْ أَصْلِهِ)

فَصْلٌ فِي الصِّنْفِ الْأَوَّلِ

أَوْلَهُمْ بِالْمِيرَاثِ أَقْرَبُهُمْ إِلَى الْمَيِّتِ كَبِنْتِ الْبِنْتِ فَإِنَّهَا أَوْلَى مِنْ بِنْتِ بِنْتِ الْإِبْنِ وَإِنِ اسْتَوَوْا فِي الدَّرَجَةِ فَوَلَدُ الْوَارِثِ أَوْلَى مِنْ وَلَدِ ذَوِي الْأَرْحَامِ كَبِنْتِ بِنْتِ الْإِبْنِ أَوْلَى مِنِ ابْنِ بِنْتِ الْبِنْتِ وَإِنِ اسْتَوَتْ دَرَجَاتُهُمْ وَلَمْ يَكُنْ فِيهِمْ وَلَدُ الْوَارِثِ أَوْ كَانَ كُلُّهُمْ وَلَدَ الْوَارِثِ فَعِنْدَ أَبِي يُوسُفَ رَحِمَهُ اللهُ وَالْحَسَنِ بْنِ زِيَادٍ يُعْتَبَرُ أَبْدَانُ الْفُرُوعِ وَيُقْسَمُ الْمَالُ عَلَيْهِمْ سَوَاءٌ اتَّفَقَتْ صِفَةُ الْأُصُولِ فِي الذُّكُورَةِ وَالْأُنُوثَةِ أَوِ اخْتَلَفَتْ وَمُحَمَّدٌ رَحِمَهُ اللهُ يَعْتَبِرُ ·

يَنْتَهِي إِلَي جَدَّيِ الْمَيِّتِ أَوْجَدَّتَيْهِ وَهِيَ الْعَمَّاتُ وَالْأَعْمَامُ

لِأُمٍّ وَالْأَخْوَالُ وَالْخَالَاتُ فَهَؤُلَاءِ وَكُلُّ مَنْ يَدْلِي إِلَي الْمَيِّتِ

بِهِمْ مِنْ ذَوِي الأَرْحَامِ رَوَي ابُوسُلَيمَانَ عَنْ مُحَمَّدِ ابْنِ

الْحَسَنِ عَنْ أَبِيحَنِيفَةَ رَحِمَهُمُ اللَّهُ إِنَّ أَقْرَبَ الأَصْنَافِ

الصِّنْفُ الثَّانِي وَإِنْ عَلَوْا ثُمَّ الْأَوَّلُ وَإِنْ سَفَلُوا ثُمَّ الثَّالِثُ

وَإِنْ نَزَلُوا ثُمَّ الرَّابِعُ وَإِنْ بَعُدُوا وَرَوَي ابُويُوسُفَ وَالْحَسَنُ

بْنُ زِيَادٍ عَنْ أَبِيحَنِيفَةَ رَحِمَهُ اللَّهُ أَنَّ أَقْرَبَ الأَصْنَافِ

الْأَوَّلُ ثُمَّ الثَّانِي ثُمَّ الثَّالِثُ ثُمَّ الرَّابِعُ كَتَرْتِيبِ الْعَصَبَاتِ

وَهُوَ الْمَأْخُوذُ لِلْفَتْوَي وَعِنْدَهُمَا الصِّنْفُ الثَّالِثُ مُقَدَّمٌ

عَلَي الْجَدَّابِ الأُمِّ لِأَنَّ عِنْدَهُمَا كُلُّ وَاحِدٍ مِنْهُمْ أَوْلَي مِنْ

فَرْعِهِ

بَابُ ذَوِي الْأَرْحَامِ

وَذُو الرَّحِمِ هُوَ كُلُّ قَرِيبٍ لَيْسَ بِذِي سَهْمٍ وَلَا عَصَبَةٍ كَانَتْ
عَامَّةُ الصَّحَابَةِ يَرَوْنَ تَوْرِيثَ ذَوِي الْأَرْحَامِ وَبِهِ قَالَ أَصْحَابُنَا
وَمَنْ تَابَعَهُمْ رَحِمَهُمُ اللّٰهُ تَعَالَي وَقَالَ زَيْدُ بْنُ ثَابِتٍ رَضِيَ اللّٰهُ
عَنْهُ لَا مِيرَاثَ لِذَوِي الْأَرْحَامِ وَيُوضَعُ الْمَالُ فِي بَيْتِ الْمَالِ
وَبِهِ قَالَ مَالِكٌ وَالشَّافِعِيُّ رَحِمَهُمَا اللّٰهُ تَعَالَي وَذَوِي الْأَرْحَامِ
أَصْنَافٌ أَرْبَعَةٌ اَلصِّنْفُ الْأَوَّلُ يَنْتَمِي إِلَي الْمَيِّتِ وَهُمْ أَوْلَادُ
الْبَنَاتِ وَأَوْلَادُ بَنَاتِ الْابْنِ وَالصِّنْفُ الثَّانِي يَنْتَمِي إِلَيْهِمُ
الْمَيِّتُ وَهُمُ الْأَجْدَادُ السَّاقِطُونَ وَالْجَدَّاتُ السَّاقِطَاتُ
وَالصِّنْفُ الثَّالِثُ يَنْتَمِي إِلَي أَبَوَيِ الْمَيِّتِ وَهُمْ أَوْلَادُ
الْأَخَوَاتِ وَبَنَاتُ الْإِخْوَةِ وَبَنُوا الْإِخْوَةِ لِأُمٍّ وَالصِّنْفُ الرَّابِعُ
يَنْتَمِي

المماثلة مافي يده من التصحيح الاوّل علي التصحيح الثّاني فلاحاجة إلي الضّرب وإن لم يستقم فانظر إن كان بينهما موافقة فاضرب وفق التصحيح الثّاني في جميع التّصحيح الاوّل وان كان بينهما مباينة فاضرب كل التّصحيح الثّاني في كل التّصحيح الاوّل فالمبلغ مخرج المسئلتين فسهام ورثة الميت الأوّل يضرب في المضروب اعني في التصحيح الثّاني اوفي وفقه وسهام ورثة الميّت الثّاني يضرب في كلّ مافي يده اوفي وفقه وان مات ثالث أو رابع فاجعل المبلغ الثّاني مقام الأوّل و الثّالث مقام الثّاني في العمل ثمّ في الرّابع والخامس كذلك إلي غير النّهاية

وَتعولُ اِلَي تسِعةٍ وَتصحُّ مِنْ سبعةٍ وعشرِينَ اِنها سمِّيتْ

أَكْدَرِيَّةً لأَنَّهَا وَاقِعَةٌ فِي امْرَأَةٍ مِنْ بَنِي أَكْدَرَ وَلَوْكَانَ

مكَانَ الاُختِ اخٌ اواُختَانِ فلاعولَ ولا اكدرِيَّة

بَابُ المُنَاسَخَةِ

وَلَوْصَارَ بَعْضُ الأَنْصِبَاءِ مِيرَاثًا قَبْلَ الْقِسْمَةِ كَزَوْجٍ وَبِنْتٍ

وامٍ فمات الزوج قبل القسمة عن امراةٍ وابوينِ ثم ماتتِ

البنت عن ابنينِ وبنتٍ وجدةٍ ثم ماتتِ الجدة عن زوجٍ

واخوينِ الاصل فيه ان تصحح مسئلة الميتِ الاولِ وتعطي

سِهام كل وارثٍ من هذا التَّصحيحِ ثم تصحح مسئلة

الميتِ الثانيِ وتنظر بين ما في يده من التَّصحيحِ الاولِ

وبين التَّصحيحِ الثانيِ اِلي ثلاثة احوالٍ فانِ استقام بسبب

المماثلة

لِأَبٍ وَأُمٍّ وَامّا سُدُسُ جَمِيعِ الْمَالِ كَجَدٍّ وَجَدَّةٍ وَبِنْتٍ وَاخَوَيْنِ

وَاِذَا كَانَ ثُلُثُ الْبَاقِي خَيْرًا لِلْجَدِّ وَلَيْسَ لِلْبَاقِي ثُلُثٌ

صَحِيحٌ فَاضْرِبْ مَخْرَجَ الثُّلُثِ فِي اَصْلِ الْمَسْئَلَةِ فَاِنْ تَرَكَتْ

جَدًّا وَزَوْجًا وَبِنْتًا وَأُمًّا وَأُخْتًا لِأَبٍ وَأُمٍّ أَوْ لِأَبٍ فَالسُّدُسُ خَيْرٌ

لِلْجَدِّ وَتَعُولُ الْمَسْئَلَةُ اِلَى ثَلَاثَةَ عَشَرَ وَلَا شَيْءَ لِلْأُخْتِ

وَاعْلَمْ اَنَّ زَيْدَ بْنَ ثَابِتٍ رَضِيَ اللّٰهُ عَنْهُ لَا يَجْعَلُ الْأُخْتَ

لِأَبٍ وَأُمٍّ اَوْ لِأَبٍ صَاحِبَةَ فَرْضٍ مَعَ الْجَدِّ اِلَّا فِي الْمَسْئَلَةِ

الْأَكْدَرِيَّةِ وَهِيَ زَوْجٌ وَاُمٌّ وَجَدٌّ وَاُخْتٌ لِأَبٍ وَاُمٍّ اَوْ لِأَبٍ لِلزَّوْجِ

النِّصْفُ وَلِلْأُمِّ الثُّلُثُ وَلِلْجَدِّ السُّدُسُ وَلِلْأُخْتِ النِّصْفُ

ثُمَّ يَضُمُّ الْجَدُّ نَصِيبَهُ اِلَى نَصِيبِ الْأُخْتِ فَيَقْسِمَانِ لِلذَّكَرِ

مِثْلُ حَظِّ الْاُنْثَيَيْنِ لِاَنَّ الْمُقَاسَمَةَ خَيْرٌ لِلْجَدِّ اَصْلُهَا مِنْ سِتَّةٍ

وَتَعُولُ

I

بَنُو الْعَلَّاتِ يَدْخُلُونَ فِي الْقِسْمَةِ مَعَ بَنِي الْأَعْيَانِ

إضْرَاراً لِلْجَدِّ فَاِذَا اَخَذَ الْجَدُّ نَصِيبَهُ فَبَنُو الْعَلَّاتِ يَخْرُجُونَ

مِنَ الْبَيْنِ خَائِبِينَ بِغَيْرِ شَيْءٍ وَالْبَاقِي لِبَنِي الْأَعْيَانِ

اِلَّا اِذَا كَانَتْ مِنْ بَنِي الْاَعْيَانِ أُخْتٌ وَاحِدَةٌ اَخَذَتْ

فَرْضَهَا اَعْنِي الْكُلَّ بَعْدَ نَصِيبِ الْجَدِّ فَاِنْ بَقِيَ شَيْءٌ

فَلِبَنِي الْعَلَّاتِ وَاِلَّا فَلَا شَيْءَ لَهُمْ وَذَلِكَ كَجَدٍّ وَأُخْتٍ

لِأَبٍ وَأُمٍّ وَأُخْتَيْنِ لِأَبٍ فَبَقِيَ لِلْأُخْتَيْنِ لِأَبٍ عُشْرُ الْمَالِ وَ

تَصِحُّ مِنْ عِشْرِينَ وَلَوْ كَانَتْ فِي هٰذِهِ الْمَسْئَلَةِ اُخْتٌ لِأَبٍ

لَمْ يَبْقَ لَهَا شَيْءٌ وَاِذَا اخْتَلَطَ بِهِمْ ذُو سَهْمٍ فَلِلْجَدِّ هٰهُنَا افْضَلُ

الْاُمُورِ الثَّلَاثَةِ بَعْدَ فَرْضِ ذِي سَهْمٍ اَمَّا الْمُقَاسَمَةُ كَزَوْجٍ

وَجَدٍّ وَاَخٍ وَاَمَّا ثُلُثُ مَا يَبْقَى كَجَدٍّ وَجَدَّةٍ وَاَخَوَيْنِ وَاُخْتٍ

لِأَبٍ

مَنْ لا يَرُدُّ عليهِ فاءِن انْكَسر علَي البعْضِ صَحِّح

الْمَسْئَلَةَ بِالْأُصُولِ الْمَذْكُورَةِ

بَابُ مُقَاسَمَةِ الْجَدِّ

قَالَ ابُوبَكْرٍ الصِّدّيْقِ رَضِيَ اللّٰهُ عَنْهُ وَمَنْ تَابَعَهُ مِنَ

الصَّحَابَةِ بَنُوا الْأَعْيَانِ وَبَنُوا الْعَلَّاتِ لَا يَرِثُونَ مَعَ الْجَدِّ وَهٰذَا

قَوْلُ أَبِيْ حَنِيْفَةَ رَحِمَهُ اللّٰهُ وَبِهِ يُفْتَي وَقَالَ زَيْدُ بْنُ ثَابِتٍ

يَرِثُونَ مَعَ الْجَدِّ وَ هُوَ قَوْلُهُمَا وَقَوْلُ مَالِكٍ وَ الشَّافِعِي

رَحِمَهُمُ اللّٰهُ تَعَالَي وَعِنْدَ زَيْدِ بنِ ثَابِتٍ رَحْمَةُ اللّٰهِ تَعَالَي

عَلَيهِ لِلْجَدِّ مَعَ بَنِي الْأَعْيَانِ وَ الْعَلَّاتِ افضلُ الأمرَيْنِ

مِنَ الْمُقَاسَمَةِ وَمِنْ ثُلُثِ جَمِيْعِ الْمَالِ وَ تَفْسِيرُ الْمُقَاسَمَةِ

أَنْ يَجْعَلَ الْجَدَّ فِي الْقِسْمَةِ كَاحَدٍ مِنَ الْاِخْوَةِ وَ

بَنُو

عَدَدِ رُؤُسِهِم فِي مَخْرَجِ فَرَضِ مَنْ لَا يُرَدُّ عَلَيْهِ فَالْمَبْلَغُ مِنْهَا

تَصِحُّ الْمَسْئَلَةُ وَالرَّابِعُ اَنْ يَكُونَ مَعَ الثَّانِي مَنْ لَا يُرَدُّ عَلَيْهِ

فَاقْسِمْ مَا بَقِيَ مِنْ مَخْرَجِ فَرَضِ مَنْ لَا يُرَدُّ عَلَيْهِ عَلَى

مَسْئَلَةِ مَنْ يُرَدُّ عَلَيْهِ فَاِنِ اسْتَقَامَ الْبَاقِيْ فَبِهَا وَهٰذَا فِي

صُوْرَةٍ وَاحِدَةٍ وَهِيَ اَنْ يَكُوْنَ لِلزَّوْجَاتِ الرُّبْعُ وَيَكُوْنُ

الْبَاقِيْ بَيْنَ أَهْلِ الرَّدِّ اَثْلَاثًا كَزَوْجَةٍ وَجَدَّةٍ وَأُخْتَيْنِ

لِأُمٍّ وَاِنْ لَمْ يَسْتَقِمْ فَاضْرِبْ جَمِيعَ مَسْئَلَةِ مَنْ يُرَدُّ عَلَيْهِ فِي

مَخْرَجِ فَرَضِ مَنْ لَا يُرَدُّ عَلَيْهِ فَالْمَبْلَغُ مَخْرَجُ فُرُوضِ

الْفَرِيْقَيْنِ كَأَرْبَعِ زَوْجَاتٍ وَتِسْعِ بَنَاتٍ وَسِتِّ جَدَّاتٍ

ثُمَّ اضْرِبْ سِهَامَ مَنْ لَا يُرَدُّ عَلَيْهِ فِي مَسْئَلَةِ مَنْ يُرَدُّ عَلَيْهِ

وَسِهَامَ كُلِّ مَنْ يُرَدُّ عَلَيْهِ فِيْمَا بَقِيَ مِنْ مَخْرَجِ فَرَضِ

مَنْ

وَالثَّانِي إِذَا اجْتَمَعَ فِي الْمَسْأَلَةِ جِنْسَانِ أَوْثَلَاثَةُ أَجْنَاسٍ
مِمَّنْ يُرَدُّ عَلَيْهِ عِنْدَ عَدَمِ مَنْ لَايُرَدُّ عَلَيْهِ فَاجْعَلِ الْمَسْأَلَةَ
مِنْ سِهَامِهِمْ أَعْنِي مِنِ اثْنَيْنِ إِنْ كَانَ فِي الْمَسْأَلَةِ سُدُسَانِ
أَوْمِنْ ثَلَاثَةٍ إِذَا كَانَ فِيهَا ثُلُثٌ وَسُدُسٌ أَوْمِنْ أَرْبَعَةٍ
إِذَا كَانَ فِيهَا نِصْفٌ وَسُدُسٌ أَوْمِنْ خَمْسَةٍ إِذَا كَانَ فِيهَا
ثُلُثَانِ وَسُدُسٌ أَوْنِصْفٌ وَسُدُسَانِ أَوْنِصْفٌ وَثُلُثٌ وَالثَّالِثُ
أَنْ يَكُونَ مَعَ الْأَوَّلِ مَنْ لَا يُرَدُّ عَلَيْهِ فَاعْطِ فَرْضَ مَنْ لَا يُرَدُّ
عَلَيْهِ مِنْ أَقَلِّ مَخَارِجِهِ فَإِنِ اسْتَقَامَ الْبَاقِي عَلَى رُؤُسِ
مَنْ يُرَدُّ عَلَيْهِ فِيهَا كَزَوْجٍ وَثَلَاثِ بَنَاتٍ وَإِنْ لَمْ يَسْتَقِمْ فَاضْرِبْ
وَفْقَ رُؤُسِهِمْ فِي مَخْرَجِ فَرْضِ مَنْ لَا يُرَدُّ عَلَيْهِ إِنْ وَافَقَ
رُؤُسَهُمُ الْبَاقِي كَزَوْجٍ وَسِتِّ بَنَاتٍ وَإِلَّا فَاضْرِبْ كُلَّ

بَابُ الرَّدِّ الرَّدُّ ضِدُّ الْعَوْلِ

وَهُوَ فِيمَا فَضَلَ عَنْ فَرْضِ ذَوِي الْفُرُوضِ وَلَا مُسْتَحِقَّ لَهُ
يُرَدُّ ذٰلِكَ عَلَي ذَوِي الْفُرُوضِ بِقَدْرِ حُقُوقِهِمْ إِلَّا عَلَي
الزَّوْجَيْنِ وَهُوَ قَوْلُ عَامَّةِ الصَّحَابَةِ كَعَلِيٍّ وَمَنْ تَابَعَهُ
رَضِيَ اللّٰهُ عَنْهُمْ وَبِهِ أَخَذَ أَصْحَابُنَا رَحِمَهُمُ اللّٰهُ وَقَالَ زَيْدُ
بْنُ ثَابِتٍ لَا يُرَدُّ الْفَاضِلُ بَلْ هُوَ لِبَيْتِ الْمَالِ وَبِهِ أَخَذَ
عُرْوَةُ وَالزُّهْرِي وَمَالِكُ وَالشَّافِعِيُّ رَحِمَهُمُ اللّٰهُ تَعَالَي
ثُمَّ مَسَائِلُ الْبَابِ أَقْسَامٌ أَرْبَعَةٌ أَحَدُهَا أَنْ يَكُونَ فِي
الْمَسْئَلَةِ جِنْسٌ وَاحِدٌ مِمَّنْ يُرَدُّ عَلَيْهِ عِنْدَ عَدَمِ مَنْ لَا يُرَدُّ
عَلَيْهِ فَاجْعَلِ الْمَسْئَلَةَ مِنْ رُؤُسِهِمْ كَمَا إِذَا تَرَكَ الْمَيِّتُ
بِنْتَيْنِ أَوْ أُخْتَيْنِ أَوْجَدَّتَيْنِ فَاجْعَلِ الْمَسْئَلَةَ مِنِ اثْنَيْنِ
وَالثَّانِي

بينهما مباينة فاضرب في كل التركة ثم اقسم الحاصل

علي جميع تصحيح المسئلة فالخارج نصيب ذلك

الفريق في الوجهين و أمّا في قضاء الديون فدين

كل غريم بمنزلة التصحيح

فصل في التخارج

من صالح علي شيء من التركة فاطرح سهامه من

التصحيح ثم اقسم باقي التركة علي سهام الباقين

كزوج وام وعم فصالح الزوج علي ما في ذمته للزوجة

من المهر وخرج من البين فيقسم باقي التركة بين

الام و العم اثلاثا بقدر سهامهما و ح يكون سهمان للام و

سهم واحد للعم

باب

فَصْلٌ فِيْ تِسمةِ التَّرِكَاتِ بَيْنَ الْوَرَثَةِ وَ الْغُرَمَآءِ

إِنْ كَانَ بَيْنَ التَّرِكَةِ وَالتَّصْحِيْحِ مُبَايَنَةٌ فَاضْرِبْ سِهَامَ كُلِّ وَارِثٍ مِنَ التَّصْحِيْحِ فِيْ جَمِيْعِ التَّرِكَةِ ثُمَّ اقْسِمِ الْمَبْلَغَ عَلَي التَّصْحِيْحِ وَ إِذَا كَانَ بَيْنَ التَّصْحِيْحِ وَ التَّرِكَةِ مُوَافَقَةٌ فَاضْرِبْ سِهَامَ كُلِّ وَارِثٍ مِنَ التَّصْحِيْحِ فِيْ وَفْقِ التَّرِكَةِ ثُمَّ اقْسِمِ الْمَبْلَغَ عَلَي وَفْقِ التَّصْحِيْحِ فَالْخَارِجُ نَصِيْبُ ذٰلِكَ الْوَارِثِ فِيْ الْوَجْهَيْنِ هٰذَا إِنَّمَا هُوَ لِمَعْرِفَةِ نَصِيْبِ كُلِّ فَرْدٍ مِنَ الْوَرَثَةِ وَ أَمَّا لِمَعْرِفَةِ نَصِيْبِ كُلِّ فَرِيْقٍ مِنْهُمْ فَاضْرِبْ مَاكَانَ لِكُلِّ فَرِيْقٍ مِنْ أَصْلِ الْمَسْئَلَةِ فِيْ وَفْقِ التَّرِكَةِ ثُمَّ اقْسِمِ الْمَبْلَغَ الْحَاصِلَ عَلَي وَفْقِ الْمَسْئَلَةِ إِنْ كَانَ بَيْنَ التَّرِكَةِ وَالْمَسْئَلَةِ مُوَافَقَةٌ وَ إِنْ كَانَ بَيْنَهُمَا

وَاِذَا أَرَدْتَ أَنْ تَعْرِفَ نَصِيبَ كُلِّ وَاحِدٍ مِنْ آحَادِ ذٰلِكَ

الْفَرِيقِ مِنَ التَّصْحِيحِ فَاقْسِمْ مَا كَانَ لِكُلِّ فَرِيقٍ مِنْ

أَصْلِ الْمَسْئَلَةِ عَلَى عَدَدِ رُؤُسِهِمْ ثُمَّ اضْرِبِ الْخَارِجَ فِي

الْمَضْرُوبِ فَالْحَاصِلُ نَصِيبُ كُلِّ وَاحِدٍ مِنْ آحَادِ ذٰلِكَ

الْفَرِيقِ وَوَجْهٌ آخَرُ أَنْ تَقْسِمَ الْمَضْرُوبَ عَلَى أَيِّ شِئْتَ

ثُمَّ تَضْرِبَ الْخَارِجَ فِي نَصِيبِ الْفَرِيقِ الَّذِي قَسَمْتَ

عَلَيْهِمِ الْمَضْرُوبَ فَالْحَاصِلُ نَصِيبُ كُلِّ وَاحِدٍ مِنْ آحَادِ

ذٰلِكَ الْفَرِيقِ وَوَجْهٌ آخَرُ وَهُوَ طَرِيقُ النِّسْبَةِ وَهُوَ الْأَوْضَحُ

فَهُوَ أَنْ يُنْسَبَ سِهَامُ كُلِّ فَرِيقٍ مِنْ أَصْلِ الْمَسْئَلَةِ إِلَى

عَدَدِ رُؤُسِهِمْ مُفْرَدًا ثُمَّ يُعْطَى بِمِثْلِ تِلْكَ النِّسْبَةِ مِنَ

الْمَضْرُوبِ لِكُلِّ وَاحِدٍ مِنْ آحَادِ ذٰلِكَ الْفَرِيقِ

فَصْلٌ

الْمَبْلَغ فِي أَصْلِ الْمَسْأَلَةِ كَأَرْبَعِ زَوْجَاتٍ وَثَمَانِي عَشَرَةَ بِنْتًا

وَخَمْسَ عَشْرَةَ جَدَّةً وَسِتَّةِ أَعْمَامٍ وَالرَّابِعُ أَنْ تَكُونَ الْأَعْدَادُ

مُتَبَايِنَةً لَا يُوَافِقُ بَعْضُهَا بَعْضًا فَالْحُكْمُ فِيهَا أَنْ يُضْرَبَ أَحَدُ

الْأَعْدَادِ فِي جَمِيعِ الثَّانِي ثُمَّ يُضْرَبُ مَا بَلَغَ فِي جَمِيعِ

الثَّالِثِ ثُمَّ مَا بَلَغَ فِي جَمِيعِ الرَّابِعِ ثُمَّ يُضْرَبُ مَا اجْتَمَعَ

فِي أَصْلِ الْمَسْأَلَةِ كَامْرَأَتَيْنِ وَسِتِّ جَدَّاتٍ وَعَشَرَةِ بَنَاتٍ

وَسَبْعَةِ أَعْمَامٍ

فَصْلٌ

وَإِذَا أَرَدْتَ أَنْ تَعْرِفَ نَصِيبَ كُلِّ فَرِيقٍ مِنَ التَّصْحِيحِ

فَاضْرِبْ مَا كَانَ لِكُلِّ فَرِيقٍ مِنْ أَصْلِ الْمَسْأَلَةِ فِيمَا ضَرَبْتَهُ

فِي أَصْلِ الْمَسْأَلَةِ فَمَا حَصَلَ كَانَ نَصِيبُ ذٰلِكَ الْفَرِيقِ

وَإِذَا

أصلِ المسئلة كزوجٍ وخمسِ أخواتٍ لأبٍ وأمٍ وأما الأربعة

فأحدها أن يكون الكسر على طائفتينِ أو أكثر ولكن

بين أعدادِ روسهم مما ثلة فالحكم فيها أن يضرب أحد

الأعدادِ في أصلِ المسئلة مثل ستّ بنات وثلثِ جدّاتٍ

وثلاثة أعمامٍ والثاني أن يكون بعض الأعدادِ في بعضه

متدن اخلاً فالحكم فيها أن يضرب أكثر الأعدادِ في

أصلِ المسئلة كأربع زوجاتٍ وثلاثِ جدّاتٍ واثني

عشر عمّاً والثالث أن يوافق بعض الأعدادِ بعضا فالحكم

فيها أن يضرب وفق أحدِ الأعدادِ في جميعِ الثاني ثمّ

ما بلغ في وفقِ الثالثِ إن وافق المبلغ الثالثَ وإلاّ

فالمبلغ في جميعِ الثالثِ ثمّ في الرابعِ كذلك ثمّ يضرب

المبلغ

بَابُ التَّصْحِيحِ

يُحْتَاجُ فِي تَصْحِيحِ الْمَسَائِلِ اِلَي سَبْعَةِ اُصُولٍ ثَلَاثَةٌ مِنْهَا

بَيْنَ السِّهَامِ وَالرُّوسِ وَأَرْبَعَةٌ مِنْهَا بَيْنَ الرُّوسِ وَالرُّوسِ أَمَّا

الثَّلَاثَةُ فَأَحَدُهَا اِنْ كَانَ سِهَامُ كُلِّ فَرِيقٍ مُنْقَسِمَةً عَلَيْهِمْ

بِلَا كَسْرٍ فَلَا حَاجَةَ اِلَي الضَّرْبِ كَأَبَوَيْنِ وَبِنْتَيْنِ وَالثَّانِي

هُوَ اِنْ يَنْكَسِرَ عَلَي طَائِفَةٍ وَاحِدَةٍ نَصِيبُهُمْ وَلَكِنْ بَيْنَ سِهَامِهِمْ

وَرُؤُسِهِمْ مُوَافَقَةٌ فَيُضْرَبُ وَفْقُ عَدَدِ رُؤُسِ مَنِ انْكَسَرَ

عَلَيْهِمِ السِّهَامُ فِي أَصْلِ الْمَسْئَلَةِ وَعَوْلِهَا اِنْ كَانَتْ عَائِلَةً

كَأَبَوَيْنِ وَعَشْرِ بَنَاتٍ اَوْزَوْجٍ وَ اَبَوَيْنِ وَسِتِّ بَنَاتٍ وَ الثَّالِثُ

اَنْ يَنْكَسِرَ سِهَامُهُمْ وَلَا يَكُونُ بَيْنَ سِهَامِهِمْ وَرُؤُسِهِمْ مُوَافَقَةٌ

فَيُضْرَبُ كُلُّ عَدَدِ رُؤُسِ مَنِ انْكَسَرَ عَلَيْهِمُ السِّهَامُ فِي

أَصْلِ

الْعَدَدَ الْعَادّ لَهُمَا مَخْرَجُ لِجُزْءِ الْوَفْقِ وَ تَبَايُنُ الْعَدَدَيْنِ

اَنْ لَا يَعُدَّ الْعَدَدَيْنِ الْمُخْتَلِفَيْنِ مَعًا عَدَدٌ ثَالِثٌ اَصْلًا

كَالتِّسْعَةِ مَعَ الْعَشَرَةِ وَطَرِيْقُ مَعْرِفَةِ الْمُوَافَقَةِ وَالْمُبَايَنَةِ بَيْنَ

الْمِقْدَارَيْنِ الْمُخْتَلِفَيْنِ اَنْ يَنْقُصَ مِنَ الْاَكْثَرِ بِمِقْدَارِ

الْاَقَلِّ مِنَ الْجَانِبَيْنِ مَرَّةً اَوْمِرَارًا حَتّٰي اتَّفَقَا فِي دَرَجَةٍ

وَاحِدَةٍ فَاِنِ اتَّفَقَا فِيْ وَاحِدٍ فَلَا وَفْقَ بَيْنَهُمَا وَاِنِ اتَّفَقَا فِي

عَدَدٍ فَهُمَا مُتَوَافِقَانِ فِيْ ذٰلِكَ الْعَدَدِ فَفِي الْاِثْنَيْنِ

بِالنِّصْفِ وَفِي الثَّلَاثَةِ بِالثُّلُثِ وَفِي الْأَرْبَعَةِ بِالرُّبْعِ هٰكَذَا

اِلَي الْعَشَرَةِ وَفِيْمَا وَرَاءَ الْعَشَرَةِ يَتَوَافَقَانِ بِجُزْءٍ اَعْنِي فِي

اَحَدَ عَشَرَ بِجُزْءٍ مِنْ اَحَدَ عَشَرَ وَفِي خَمْسَةَ عَشَرَ بِجُزْءٍ مِنْ

خَمْسَةَ عَشَرَ فَاعْتَبِرْ هٰذَا

باَبٌ F

كَامْرَأَةٍ وَأُمٍّ وَأُخْتَيْنِ لِأَبٍ وَأُمٍّ وَأُخْتَيْنِ لِأُمٍّ وَابْنٍ مَحْرُومٍ

بَابُ مَعْرِفَةِ التَّمَاثُلِ وَ التَّدَاخُلِ

وَ التَّوَافُقِ وَ التَّبَايُنِ بَيْنَ الْعَدَدَيْنِ

تَمَاثُلُ الْعَدَدَيْنِ كَوْنُ أَحَدِهِمَا مُسَاوِيًا لِلْآخَرِ

وَ تَدَاخُلُ الْعَدَدَيْنِ أَنْ يَعُدَّ أَقَلُّهُمَا الْأَكْثَرَ أَيْ يُفْنِيهِ

أَوْنَقُولُ تَدَاخُلُ الْعَدَدَيْنِ هُوَ أَنْ يَكُونَ أَكْثَرُ الْعَدَدَيْنِ

منقسما علي الاقل قسمة صحيحة اونقول هوان زيد علي

الْأَقَلِّ مِثْلُهُ أَوْ أَمْثَالُهُ نَيُسَاوِي الْأَكْثَرَ أَوْ نَقُولُ أَنْ يَكُونَ

الْأَقَلُّ جُزْءَ الْأَكْثَرِ مِثْلُ ثَلَاثَةٍ وَتِسْعَةٍ وَتَوَافُقُ الْعَدَدَيْنِ أَنْ

لَا يَعُدَّ أَقَلُّهُمَا الْأَكْثَرَ وَلَكِنْ يَعُدُّهُمَا عَدَدٌ ثَالِثٌ كَالثَّمَانِيَةِ

مَعَ الْعِشْرِينَ يَعُدُّهُمَا أَرْبَعَةٌ فَهُمَا مُتَوَافِقَانِ بِالرُّبْعِ لِأَنَّ

الْعَدَدَ

بَابُ الْعَوْلِ

أَلْعَوْلُ أَنْ يُزَادَ عَلَي الْمَخْرَجِ شَيْءٌ مِنْ أَجْزَائِهِ اِذَا ضَاقَ الْمَخْرَجُ عَنْ فَرْضٍ إِعْلَمْ اَنَّ مَجْمُوعَ الْمَخَارِجِ سَبْعَةٌ اَرْبَعَةٌ مِنْهَا لَا تَعُولُ وَهِيَ الْاِثْنَانِ وَالثَّلَاثَةُ وَالْاَرْبَعَةُ وَالثَّمَانِيَةُ وَثَلٰثَةٌ مِنْهَا قَدْ تَعُولُ أَمَّا السِّتَّةُ فَتَعُولُ اِلَي عَشْرٍ وِتْرًا أَوْشُفْعًا وَأَمَّا اثْنَي عَشَرَ فَهِيَ تَعُولُ اِلَي سَبْعَةَ عَشَرَ وِتْرًا لَا شُفْعًا وَأَمَّا أَرْبَعَةٌ وَعِشْرُونَ فَاِنَّهَا تَعُولُ اِلَي سَبْعَةٍ وَعِشْرِينَ عَوْلًا وَاحِدًا فِي الْمَسْئَلَةِ الْمِنْبَرِيَّةِ وَهِيَ امْرَأَةٌ وَبِنْتَانِ وَاَبَوَانِ وَلَا يُزَادُ عَلَي هٰذَا اِلَّا عِنْدَ ابْنِ مَسْعُودٍ رَضِيَ اللّٰهُ عَنْهُ فَاِنَّ عِنْدَهُ تَعُولُ اَرْبَعَةٌ وَعِشْرُونَ اِلَي اِحْدَي وَثَلٰثِينَ كَامْرَأَةٍ

فَاذَا جَاءَ فِي الْمَسَايِلِ مِنْ هٰذِهِ الْفُرُوضِ أُحَادُ أُحَادُ

فَمَخْرَجُ كُلِّ فَرْضٍ سَمِيّهُ اِلَّا النِّصْفُ فَانَّهُ مِنَ الْاِثْنَيْنِ

كَالرُّبْعِ مِنْ اَرْبَعَةٍ وَالثُّمْنُ مِنْ ثَمَانِيَةٍ وَ الثُّلْثُ مِنْ

ثَلَاثَةٍ وَاِذَا جَاءَ مَثْنَي اَوْثُلَاثُ وَهُمَا مِنْ نَوْعٍ وَاحِدٍ فَكُلُّ

عَدَدٍ يَكُونُ مَخْرَجًا لِجُزْءٍ فَذٰلِكَ الْعَدَدُ اَيْضًا مَخْرَجُ

لِضِعْفِ ذٰلِكَ الْجُزْءِ وَ لِضِعْفِ ضِعْفِهِ كَالسِّتَّةِ هِيَ

مَخْرَجٌ لِلسُّدُسِ وَلِضِعْفِهِ وَاِذَا اخْتَلَطَ النِّصْفُ مِنَ النَّوْعِ

الْأَوَّلِ بِكُلِّ الثَّانِي أَوْ بِبَعْضِهِ فَهُوَ مِنْ سِتَّةٍ وَ اِذَا اخْتَلَطَ

الرُّبْعُ بِكُلِّ الثَّانِي أَوْ بِبَعْضِهِ فَهُوَ مِنْ اِثْنَي عَشَرَ وَ اِذَا

اخْتَلَطَ الثُّمْنُ بِكُلِّ الثَّانِي أَوْ بِبَعْضِهِ فَهُوَ مِنْ اَرْبَعَةٍ وَ

عِشْرِينَ

بَابٌ

التَّرِكَةِ وَالثَّانِي الْأَقْرَبُ فَالْأَقْرَبُ كَمَا ذَكَرْنَا فِي

الْعَصَبَاتِ وَالْمَحْرُومُ لَا يَحْجُبُ عِنْدَنَا وَعِنْدَ ابْنِ مَسْعُودٍ

رَضِيَ اللهُ عَنْهُ يَحْجُبُ حَجْبَ النُّقْصَانِ كَالْكَافِرِ

وَالْقَاتِلِ وَالرَّقِيقِ وَالْمَحْجُوبُ يَحْجُبُ بِالِاتِّفَاقِ

كَالِاثْنَيْنِ مِنَ الْإِخْوَةِ وَالْأَخَوَاتِ فَصَاعِدًا مِنْ أَيِّ جِهَةٍ

كَانَا فَإِنَّهُمَا لَا يَرِثَانِ مَعَ الْأَبِ لَكِنْ يَحْجُبَانِ الْأُمَّ مِنَ

الثُّلُثِ إِلَي السُّدُسِ

بَابُ مَخَارِجِ الْفُرُوضِ

اِعْلَمْ أَنَّ الْفُرُوضَ السِّتَّةَ الْمَذْكُورَةَ فِي كِتَابِ اللهِ

تَعَالَي نَوْعَانِ اَلْاَوَّلُ النِّصْفُ وَالرُّبُعُ وَالثُّمُنُ وَالثَّانِي

الثُّلُثَانِ وَالثُّلُثُ وَالسُّدُسُ عَلَي التَّنْصِيفِ وَالتَّضْعِيفِ

بَابُ الحَجْبِ

أَلْحَجْبُ عَلَي نَوْعَيْنِ حَجْبُ نُقْصَانٍ وَهُوَ حَجْبٌ عَنْ سَهْمٍ إِلَي سَهْمٍ وَذٰلِكَ لِخَمْسَةِ نَفَرٍ لِلزَّوْجَيْنِ وَالْأُمِّ وَبِنْتِ الْإِبْنِ وَالْأُخْتِ لِأَبٍ وَقَدْ مَرَّ بَيَانُهُ وَحَجْبُ حِرْمَانٍ وَالْوَرَثَةُ فِيهِ فَرِيقَانِ فَرِيقٌ لَا يُحْجَبُونَ بِحَالٍ الْبَتَّةَ وَهُمْ سِتَّةٌ الْإِبْنُ وَالْأَبُ وَالزَّوْجُ وَالْبِنْتُ وَالْأُمُّ وَالزَّوْجَةُ وَفَرِيقٌ يَرِثُونَ بِحَالٍ وَيُحْجَبُونَ بِحَالٍ وَهٰذَا مَبْنِيٌّ عَلَي أَصْلَيْنِ أَحَدُهُمَا هُوَ أَنَّ كُلَّ مَنْ يَدْلِي إِلَي الْمَيِّتِ بِشَخْصٍ لَا يَرِثُ مَعَ وُجُودِ ذٰلِكَ الشَّخْصِ كَابْنِ الْإِبْنِ مَعَ الْإِبْنِ سِوَي أَوْلَادِ الْأُمِّ فَإِنَّهُمْ يَرِثُونَ مَعَهَا لِانْعِدَامِ اسْتِحْقَاقِهَا جَمِيعَ

التَّرِ

أَوْ أَعْتَقَ مَنْ أَعْتَقْنَ أَوْ كَاتَبْنَ أَوْ كَاتَبَ مَنْ كَاتَبْنَ
أَوْ دَبَّرْنَ أَوْ دَبَّرَ مَنْ دَبَّرْنَ أَوْ جَرَّ وَلَاءُ مُعْتَقِهِنَّ وَلَوْ تَرَكَ أَبَا
الْمُعْتِقِ وَابْنَهُ سُدُسُ الْوَلَاءِ لِلْأَبِ وَالْبَاقِي لِلْابْنِ
عِنْدَهُمَا كُلُّهُ لِلْابْنِ وَلَوْ تَرَكَ ابْنَ الْمُعْتِقِ وَجَدَّهُ
فَالْوَلَاءُ كُلُّهُ لِلْابْنِ بِالْاتِّفَاقِ وَمَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ
مِنْهُ عَتَقَ عَلَيْهِ وَيَكُونُ وَلَاؤُهُ لَهُ كَثَلَاثِ بَنَاتٍ لِلصُّغْرَى
عِشْرُونَ دِينَارًا وَلِلْكُبْرَى ثَلَاثُونَ دِينَارًا فَاشْتَرَتَا أَبَاهُمَا
بِالْخَمْسِينَ ثُمَّ مَاتَ الْأَبُ وَتَرَكَ شَيْئًا مِنَ الْمَالِ فَالثُّلُثَانِ
بَيْنَهُنَّ أَثْلَاثًا بِالْفَرْضِ وَالْبَاقِي بَيْنَ مُشْتَرِيَتَيِ الْأَبِ
أَخْمَاسًا ثَلَاثَةُ أَخْمَاسٍ لِلْكُبْرَى وَخُمُسَاهُ لِلصُّغْرَى
فَتَصِحُّ مِنْ خَمْسَةٍ وَأَرْبَعِينَ

الحُكْمُ فِيْ أَعْمَامِ الْمَيِّتِ ثُمَّ فِيْ أَعْمَامِ أَبِيْهِ ثُمَّ فِيْ أَعْمَامِ
جَدِّهِ أَمَّا الْعَصَبَةُ بِغَيْرِهِ فَأَرْبَعٌ مِنَ النِّسْوَةِ وَهُنَّ اللَّاتِي
فَرْضُهُنَّ النِّصْفُ وَالثُّلُثَانِ يَصِرْنَ عَصَبَةً بِإِخْوَتِهِنَّ
كَمَا ذَكَرْنَا فِيْ حَالَاتِهِنَّ وَمَنْ لَافَرْضَ لَهَا مِنَ الْإِنَاثِ
وَأَخُوْهَا عَصَبَةٌ لَاتَصِيْرُ عَصَبَةً بِأَخِيْهَا كَالْعَمِّ وَالْعَمَّةِ
وَأَمَّا الْعَصَبَةُ مَعَ غَيْرِهِ فَكُلُّ أُنْثَي تَصِيْرُ عَصَبَةً مَعَ أُنْثَي
أُخْرَي كَالْأُخْتِ مَعَ الْبِنْتِ كَمَاذَكَرْنَا وَأَخِرُ الْعَصَبَاتِ
مَوْلَي الْعَتَاقَةِ ثُمَّ عَصَبَتُهُ عَلَي التَّرْتِيْبِ الَّذِيْ ذَكَرْنَا
لِقَوْلِهِ عَلَيْهِ الصَّلٰوةُ وَالسَّلَامُ الْوَلَاءُ لُحْمَةٌ كَلُحْمَةِ النَّسَبِ
وَلَاشَيْءَ لِلْإِنَاثِ مِنْ وَرَثَةِ الْمُعْتِقِ لِقَوْلِهِ عَلَيْهِ الصَّلٰوةُ
وَالسَّلَامُ لَيْسَ لِلنِّسَاءِ مِنَ الْوَلَاءِ شَيْءٌ إِلَّا مَا اعْتَقْنَ
أَوْ أَعْتَقَ

وَأَصْلُهُ وَجُزْءُ أَبِيهِ وَجُزْءُ جَدِّهِ الأَقْرَبُ فَالأَقْرَبُ يُرَجَّحُونَ

بِقُرْبِ الدَّرَجَةِ أَعْنِي بِهِ أَوْلاَهُمْ بِالْمِيرَاثِ جُزْءُ الْمَيِّتِ

أَيِ الْبَنُونَ ثُمَّ بَنُوهُمْ وَإِنْ سَفَلُوا ثُمَّ أَصْلُهُ أَيِ الأَبُ ثُمَّ الْجَدُّ

أَبِ الأَبِ وَإِنْ عَلاَ ثُمَّ جُزْءُ أَبِيهِ أَيِ الأُخْوَةُ ثُمَّ بَنُوهُمْ

وَإِنْ سَفَلُوا ثُمَّ جُزْءُ جَدِّهِ أَيِ الأَعْمَامُ ثُمَّ بَنُوهُمْ وَإِنْ سَفَلُوا

ثُمَّ يُرَجَّحُونَ بِقُوَّةِ الْقَرَابَةِ أَعْنِي بِهِ ذَا الْقَرَابَتَيْنِ أَوْلَى

مِنْ ذِي قَرَابَةٍ وَاحِدَةٍ ذَكَراً كَانَ أَوْ أُنْثَى لِقَوْلِهِ

عَلَيْهِ السَّلاَمُ إِنَّ أَعْيَانَ بَنِي الأَبِ وَالأُمِّ يَتَوَارَثُونَ دُونَ

بَنِي الْعَلاَّتِ كَالأَخِ لأَبٍ وَأُمٍّ أَوْلَى مِنَ الأَخِ لأَبٍ وَالأُخْتُ

لأَبٍ وَأُمٍّ إِذَا صَارَتْ عَصَبَةً مَعَ الْبِنْتِ أَوْلَى مِنَ الأَخِ لأَبٍ

وَابْنُ الأَخِ لأَبٍ وَأُمٍّ أَوْلَى مِنِ ابْنِ الأَخِ لأَبٍ وَكَذَلِكَ

الْحُكْمُ

D

أُمُّ أُمٍّ

أُمُّ أَبٍ أُمُّ

أُمٌّ أَبٌ

يُقْسَمُ السُّدُسُ بَيْنَهُمَا عِنْدَ أَبِي يُوسُفَ رَحْمَةُ اللّٰهِ عَلَيْهِ

انصافا باعتبار الابدان وعند محمد رحمة الله عليه

اثلاثا باعتبار الجهات

بَابُ الْعَصَبَاتِ

اَلْعَصَبَاتُ النَّسَبِيَّةُ ثَلَاثَةٌ عَصَبَةٌ بِنَفْسِهِ وَ عَصَبَةٌ بِغَيْرِهِ

وَعَصَبَةٌ مَعَ غَيْرِهِ أَمَّا الْعَصَبَةُ بِنَفْسِهِ فَكُلُّ ذَكَرٍ لَايَدْخُلُ

فِي نِسْبَتِهِ إِلَي الْمَيِّتِ أُنْثَي وَهِيَ أَرْبَعَةُ أَصْنَافٍ جُزْءُ الْمَيِّتِ

وَأَصْلُهُ

وابوينِ اوزوجة وابوينِ ولوكانَ مكانَ الابِ جدٌّ فللامِّ

ثلثُ جميعِ المالِ الا عندابي يوسف رحمه اللّٰه فان لها

ايضا ثلث الباقي وللجدة السدس لامٍ كانت اولابٍ

واحدةً كانت اواكثر اذا كنّ ثابتات متحاذياتٍ

في الدرجةِ ويسقطن كلّهنّ بالأمّ والأبويّات أيضا

بالاب وكذلك بالجدّ الاّ امّ الاب وان علت فانها ترث

مع الجدّ لانّها ليست من قبله والجدة القربي من ايِّ

جهةٍ كانت تحجب الجدة البعدي من اي جهةٍ

كانت وارثة كانت القربي او محجوبة واذا كانت

الجدة ذات قرابةٍ واحدةٍ كامّ امّ الاب والاخري ذات

قرابتين اواكثر كامّ أمّ الأمّ وهي أيضا امّ أب الأب

بهذه الصورة

أمّ

لِأَبٍ وَأُمٍّ وَلَهُنَّ السُّدُسُ مَعَ الْأُخْتِ لِأَبٍ وَأُمٍّ تَكْمِلَةً

لِلثُّلُثَيْنِ وَلَا يَرِثْنَ مَعَ الْأُخْتَيْنِ لِأَبٍ وَأُمٍّ إِلَّا أَنْ يَكُونَ

مَعَهُنَّ أَخٌ لِأَبٍ فَيُعَصِّبُهُنَّ وَيَكُونُ الْبَاقِي بَيْنَهُنَّ لِلذَّكَرِ

مِثْلُ حَظِّ الْأُنْثَيَيْنِ وَالسَّادِسَةُ أَنْ يَصِرْنَ عَصَبَةً مَعَ الْبَنَاتِ

أَوْ مَعَ بَنَاتِ الْاِبْنِ لِمَا ذَكَرْنَا وَبَنُو الْأَعْيَانِ وَبَنُو الْعَلَّاتِ

كُلُّهُمْ يَسْقُطُونَ بِالْاِبْنِ وَابْنِ الْاِبْنِ وَإِنْ سَفَلَ وَبِالْأَبِ

بِالْاِتِّفَاقِ وَبِالْجَدِّ عِنْدَ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى

وَيَسْقُطُ بَنُو الْعَلَّاتِ أَيْضًا بِالْأَخِ لِأَبٍ وَأُمٍّ وَأَمَّا لِلْأُمِّ فَأَحْوَالٌ

ثَلَاثٌ السُّدُسُ مَعَ الْوَلَدِ أَوْ وَلَدِ الْاِبْنِ وَإِنْ سَفَلَ أَوْ مَعَ الْاِ

ثْنَيْنِ مِنَ الْإِخْوَةِ وَالْأَخَوَاتِ فَصَاعِدًا مِنْ أَيِّ جِهَةٍ كَانَا

وَثُلُثُ الْكُلِّ عِنْدَ عَدَمِ هٰؤُلَاءِ الْمَذْكُورِينَ وَثُلُثُ مَا بَقِيَ

بَعْدَ فَرْضِ أَحَدِ الزَّوْجَيْنِ وَذٰلِكَ فِي مَسْئَلَتَيْنِ زَوْجٌ

وَأَبَوَيْنِ

الْأَوَّلِ اَلنِّصْفُ وَلِلْوُسْطَى مِنَ الْفَرِيقِ الْأَوَّلِ مَعَ
مَنْ يُوَازِيهَا السُّدُسُ تَكْمِلَةً لِلثُّلُثَيْنِ وَلَا شَيْءَ
لِلسُّفْلَيَاتِ أَصْلًا إِلَّا أَنْ يَكُونَ مَعَهُنَّ غُلَامٌ فَيُعَصِّبُهُنَّ
مَنْ كَانَتْ بِحِذَائِهِ وَمَنْ كَانَتْ فَوْقَهُ لِمَنْ لَمْ يَكُنْ
ذَاتَ سَهْمٍ وَيَسْقُطُ مَنْ دُونَهُ وَأَمَّا الْأَخَوَاتُ لِأَبٍ وَأُمٍّ
فَأَحْوَالٌ خَمْسٌ اَلنِّصْفُ لِلْوَاحِدَةِ وَالثُّلُثَانِ لِلِاثْنَتَيْنِ
فَصَاعِدًا وَمَعَ الْأَخِ لِأَبٍ وَأُمٍّ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ
فَيَصِرْنَ بِهِ عَصَبَةً لِاسْتِوَائِهِمْ فِي الْقَرَابَةِ إِلَى الْمَيِّتِ
وَلَهُنَّ الْبَاقِي مَعَ الْبَنَاتِ أَوْ بَنَاتِ الْاِبْنِ لِقَوْلِهِ عَلَيْهِ الصَّلٰوةُ
وَالسَّلَامُ اِجْعَلُوا الْأَخَوَاتِ مَعَ الْبَنَاتِ عَصَبَةً وَالْأَخَوَاتُ
لِأَبٍ كَالْأَخَوَاتِ لِأَبٍ وَأُمٍّ وَلَهُنَّ أَحْوَالٌ سَبْعٌ اَلنِّصْفُ
لِلْوَاحِدَةِ وَالثُّلُثَانِ لِلِاثْنَتَيْنِ فَصَاعِدًا عِنْدَ عَدَمِ الْأَخَوَاتِ

اِبْنُ بِنْتٍ . . . . اِبْنٌ . . . . اِبْنٌ

اِبْنُ بِنْتٍ . . . . اِبْنُ بِنْتٍ . . . . اِبْنٌ

اِبْنُ بِنْتٍ . . . . اِبْنُ بِنْتٍ . . . . اِبْنُ بِنْتٍ

اِبْنُ بِنْتٍ . . . . . . اِبْنُ بِنْتٍ

اِبْنُ بِنْتٍ

اَلْعُلْيَا مِنَ الْفَرِيْقِ الْاَوَّلِ لَايُوَازِيْهَا اَحَدٌ وَالْوُسْطَى

مِنَ الْفَرِيْقِ الْاَوَّلِ تُوَازِيْهَا الْعُلْيَا مِنَ الْفَرِيْقِ الثَّانِيْ

وَالسُّفْلَى مِنَ الْفَرِيْقِ الْاَوَّلِ تُوَازِيْهَا الْوُسْطَى

مِنَ الْفَرِيْقِ الثَّانِيْ وَالْعُلْيَا مِنَ الْفَرِيْقِ الثَّالِثِ

وَالسُّفْلَى مِنَ الْفَرِيْقِ الثَّانِيْ تُوَازِيْهَا الْوُسْطَى

مِنَ الْفَرِيْقِ الثَّالِثِ وَالسُّفْلَى مِنَ الْفَرِيْقِ الثَّالِثِ

لَايُوَازِيْهَا اَحَدٌ اِذَا عَرَفْتَ هٰذَا فَنَقُوْلُ لِلْعُلْيَا مِنَ الْفَرِيْقِ

الْاَ

٤

كَبَنَاتِ الصُّلْبِ وَلَهُنَّ أَحْوَالُ سِتٌّ النِّصْفُ لِلْوَاحِدَةِ

وَالثُّلُثَانِ لِلِاثْنَتَيْنِ فَصَاعِدًا عِنْدَ عَدَمِ بَنَاتِ الصُّلْبِ

وَلَهُنَّ السُّدُسُ مَعَ الْوَاحِدَةِ الصُّلْبِيَّةِ تَكْمِلَةً لِلثُّلُثَيْنِ

وَلَا يَرِثْنَ مَعَ الصُّلْبِيَّتَيْنِ إِلَّا أَنْ يَكُونَ بِحِذَائِهِنَّ أَوْ أَسْفَلَ

مِنْهُنَّ غُلَامٌ فَيُعَصِّبُهُنَّ وَالْبَاقِي بَيْنَهُمْ لِلذَّكَرِ مِثْلُ

حَظِّ الْأُنْثَيَيْنِ وَيَسْقُطْنَ كُلُّهُنَّ بِالِابْنِ وَلَوْ تَرَكَ ثَلٰثَ

بَنَاتِ ابْنٍ بَعْضُهُنَّ أَسْفَلُ مِنْ بَعْضٍ وَثَلَاثَ بَنَاتِ ابْنِ

ابْنٍ آخَرَ بَعْضُهُنَّ أَسْفَلُ مِنْ بَعْضٍ وَثَلَاثَ بَنَاتِ ابْنِ

ابْنِ ابْنٍ آخَرَ بَعْضُهُنَّ أَسْفَلُ مِنْ بَعْضٍ بِهٰذِهِ الصُّورَةِ

وَتُسَمَّى مَسْئَلَةَ التَّشْبِيبِ

مذ

اَلْفَرِيقُ الْأَوَّلُ	وَالْفَرِيقُ الثَّانِي	وَالْفَرِيقُ الثَّالِثُ
ابْنٌ	ابْنٌ	ابْنٌ
ابْنٌ بِنْتٌ		

فَأَحْوَالٌ ثَلٰثٌ السُّدُسُ لِلْوَاحِدِ وَالثُّلُثُ لِلاثْنَيْنِ فَصَاعِدًا

ذُكُورُهُمْ وَإِنَاثُهُمْ فِي الْقِسْمَةِ وَالْاِسْتِحْقَاقِ سَوَآءٌ

وَيَسْقُطُونَ بِالْوَلَدِ وَوَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَبِالْأَبِ

وَبِالْجَدِّ بِالْاِتِّفَاقِ وَأَمَّا لِلزَّوْجِ فَحَالَتَانِ النِّصْفُ

عِنْدَ عَدَمِ الْوَلَدِ وَوَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَالرُّبُعُ

مَعَ الْوَلَدِ أَوْ وَلَدِ الْاِبْنِ وَإِنْ سَفَلَ

فَصْلٌ فِي النِّسَآءِ

لِلزَّوْجَاتِ حَالَتَانِ الرُّبُعُ لِلْوَاحِدَةِ فَصَاعِدًا عِنْدَ عَدَمِ

الْوَلَدِ وَوَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَالثُّمُنُ مَعَ الْوَلَدِ

أَوْ وَلَدِ الْاِبْنِ وَإِنْ سَفَلَ وَأَمَّا الْبَنَاتُ الصُّلْبِ فَأَحْوَالٌ ثَلٰثٌ

النِّصْفُ لِلْوَاحِدَةِ وَالثُّلُثَانِ لِلاثْنَيْنِ فَصَاعِدًا وَمَعَ الْاِبْنِ

لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ وَهُوَ يُعَصِّبُهُنَّ وَبَنَاتُ الْاِبْنِ

كَبَنَاتِ

نفراً اربعة من الرجال وهم الاب والجد الصحيح
وان علا والاخ لام والزوج وثمان من النساء وهن الزوجة
والبنت وبنت الابن وان سفلت والاخت لاب وام
والاخت لاب والاخت لام والام والجدة الصحيحة
وهي التي لايدخل في نسبتها الي الميت جد فاسد
اما للاب فاحوال ثلث الفرض المطلق وهو السدس
وذلك مع الابن اوابن الابن وان سفل والفرض
والتعصيب معاوذلك مع الابنة اوابنة الابن وان سفلت
والتعصيب المحض وذلك عند عدم الولد وولد الابن
وان سفل والجد الصحيح كالاب الا في اربع مسايل
وسنذكرها انشاءالله تعالي ويسقط الجد بالاب
لان الاب اصل في قرابة الجد الي الميت واما لاولاد الام

فاحوال

مُقِرًّا عَلَى إِقْرَارِهِ ثُمَّ الْمُوصَى لَهُ بِجَمِيعِ الْمَالِ ثُمَّ بَيْتُ الْمَالِ

فَصْلٌ فِي الْمَوَانِعِ مِنَ الْإِرْثِ

اَلْمَانِعُ مِنَ الْإِرْثِ أَرْبَعَةٌ الرِّقُّ وَافِرًا كَانَ أَوْ نَاقِصًا وَالْقَتْلُ الَّذِي يَتَعَلَّقُ بِهِ وُجُوبُ الْقِصَاصِ أَوِ الْكَفَّارَةِ وَاخْتِلَافُ الدِّينَيْنِ وَاخْتِلَافُ الدَّارَيْنِ إِمَّا حَقِيقَةً كَالْحَرْبِيِّ وَالذِّمِّيِّ أَوْ حُكْمًا كَالْمُسْتَأْمَنِ وَالذِّمِّيِّ أَوِ الْحَرْبِيَّيْنِ مِنْ دَارَيْنِ مُخْتَلِفَيْنِ وَالدَّارُ إِنَّمَا تَخْتَلِفُ بِاخْتِلَافِ الْمَنَعَةِ وَالْمَلِكِ لِانْقِطَاعِ الْعِصْمَةِ فِيمَا بَيْنَهُمْ

بَابُ مَعْرِفَةِ الْفُرُوضِ وَمُسْتَحِقِّيهَا

اَلْفُرُوضُ الْمُقَدَّرَةُ فِي كِتَابِ اللّٰهِ تَعَالَى سِتَّةٌ النِّصْفُ وَالرُّبُعُ وَالثُّمُنُ وَالثُّلُثَانِ وَالثُّلُثُ وَالسُّدُسُ عَلَى التَّضْعِيفِ وَالتَّنْصِيفِ وَأَصْحَابُ هٰذِهِ السِّهَامِ اثْنَيْ عَشَرَ

نَفَرًا

وَتَكْفِينِهِ بِلَاتَبْذِيرٍ وَلَاتَقْتِيرٍ ثُمَّ يُقْضِي دُيُونَهُ مِنْ
جَمِيعِ مَابَقِيَ مِنْ مَالِهِ ثُمَّ تُنْفَذُ وَصَايَاهُ مِنْ ثُلُثِ
مَا بَقِيَ بَعْدَالدَّيْنِ ثُمَّ يُقْسَمُ الْبَاقِي بَيْنَ وَرَثَتِهِ
بِالْكِتَابِ وَالسُّنَّةِ وَ اِجْمَاعِ الْأُمَّةِ فَيُبْدَاءُ بِأَصْحَابِ
الْفَرَايِضِ وَهُمُ الَّذِيْنَ لَهُمْ سِهَامٌ مُقَدَّرَةٌ فِيْ كِتَابِ
اللّٰهِ تَعَالَي ثُمَّ بِالْعَصَبَاتِ مِنْ جِهَةِ النَّسَبِ وَالْعَصَبَةُ
كُلُّ مَنْ يَأْخُذُ مِنَ التَّرِكَةِ مَا أَبْقَتْهُ أَصْحَابُ الْفَرَايِضِ
وَ عِنْدَالْاِنْفِرَادِ يَحْرُزُ جَمِيْعَ اَلْمَالِ ثُمَّ بِالْعَصَبَةِ مِنْ
جِهَةِ السَّبَبِ وَهُوَمَوْلَي الْعِتَاقَةِ ثُمَّ عَصَبَتُهُ ثُمَّ الرَّدُّ
عَلَي ذَوِي الْفُرُوْضِ النَّسَبِيَّةِ بِقَدْرِ حُقُوْقِهِمْ ثُمَّ ذَوِي
الْأَرْحَامِ ثُمَّ مَوْلَي الْمُوَالَاةِ ثُمَّ الْمُقَرُّ لَهُ بِالنَّسَبِ عَلَي الْغَيْرِ
بِحَيْثُ لَمْ يَثْبُتْ نَسَبُهُ مِنْ ذٰلِكَ الْغَيْرِ اِذَا مَاتَ الْمُقِرُّ
مُصِرًّا

بسم الله الرحمن الرحيم

اَلْحَمْدُ لِلّٰهِ رَبِّ الْعٰلَمِيْنَ حَمْدَ الشَّاكِرِيْنَ وَالصَّلوٰةُ عَلٰي خَيْرِ الْبَرِيَّةِ مُحَمَّدٍ وَّاٰلِهِ الطَّيِّبِيْنَ قَالَ رَسُوْلُ اللّٰهِ صَلَّي اللّٰهُ عَلَيْهِ وَسَلَّمَ تَعَلَّمُوا الْفَرَائِضَ وَعَلِّمُوْهَا النَّاسَ فَاِنَّهَا نِصْفُ الْعِلْمِ قَالَ عُلَمَاؤُنَا رَحِمَهُمُ اللّٰهُ يَتَعَلَّقُ بِتَرِكَةِ الْمَيِّتِ حُقُوْقٌ اَرْبَعَةٌ مُرَتَّبَةٌ اَلْاَوَّلُ يُبْدَءُ بِتَجْهِيْزِهٖ وَتَكْفِيْنِهٖ

